EMPIRE CITY COUNCIL AGENDA
September 24, 2024 - 7:00 PM, Empire City Hall

A. Call Meeting to Order and Flag Pledge

B. Roll Call

C. Approve the Agenda

D. Consent Agenda

D.1 Minutes of the 9/10/2024 City Council Meeting; 9/17/2024 Planning Commission Meeting; 9/23/2024 Park & Rec. Meeting
D.2 Bill List as of 9/24/2024
D.3 Cash Balance Report as of 9/24/2024
D.4 Consider Approving Food Truck (MFU) Licenses
D.5 Liquor License for Newman Golf Investors, LP (Southern Hills Golf Course)

E. Visitors

The Visitors Forum is intended to afford the public the opportunity to address concerns to the City Council. Each presenter will have no more than five (5) minutes to speak. Topics of discussion are restricted to local governmental topics rather than private agendas. The Council may discuss but will not take formal action on visitors' forum presentations.

F. Committee Reports:

Maintenance / Sewer and Water / Road and Bridges

Law Enforcement

Park & Rec

Engineering

1. Consider Approving Pay Request #3 - McNamara Contracting / Project Update

Planning

1. Request to Transfer One Residential Building Right from PID 12-03300-01-020 to 12-02700-52-012
2. Consider Approving Continuation of the 24-Hour Operation for Holcim's Stonex-Nielsen Mine
3. Information and Discussion on Proposed Cannabis Regulations
4. Draft Letter on Met Council 2050 Land Use Policy

G. Old Business

H. New Business

H.1 Consider Adopting Resolution 2024-9B; Setting Public Hearing for Proposed Vacation of Public Street
H.2 Consider Amendments to the City's Personnel Policy
H.3 Consider Renewing the City's Employee Health Insurance Coverage with BlueCross BlueShield of Minnesota

H.4 Parking on Streets During Events at Stelzel Fields
H.5 Clerk-Administrator Update

I. Meetings: Planning Commission 10/1/24, 8:00 PM; City Council 10/8/24, 7:00 PM; Park & Rec. 10/14/24, 7:00 PM

J. FYI
J.1 Information from Charter Communications on Cable Package Changes
J.2 Legal Service Rate Increase

K. Adjournment

MEMORANDUM

Date:	September 24, 2024
To:	Empire City Council
From:	Charles Seipel-Teng, Clerk-Administrator
RE:	Minutes of the 9/10/2024 City Council Meeting; 9/17/2024 Planning Commission Meeting; 9/23/2024 Park & Rec. Meeting

Attachment(s): *9 10 24 Council Minutes.pdf*
9 17 24 PC Minutes.pdf
PR Minutes 9 23 24.pdf

CITY OF EMPIRE

Empire City Council Meeting Minutes
September 10, 2024, Empire City Hall

The meeting of the Empire City Council was called to order by Mayor Trent Larson at 7:00 PM.

Present were: Mayor Trent Larson; Council Members: Eric Hanson; Danny Rubio; Marla Vagts; Melanie Lee. Also present were Jerod Waltman, Maintenance Supervisor; Jenni Faulkner, Consulting Planner with Bolton & Menk; Dakota County Sheriff's Deputy, Hanah Martin; and Charles Seipel-Teng, Clerk-Administrator.

A. Call Meeting to Order and Flag Pledge

B. Roll Call

C. Approve the Agenda

Eric Hanson made a motion to approve. Marla Vagts seconded. Motion carried 5-0

D. Consent Agenda

D.1 Minutes of the 8/27/2024 City Council Meeting; 9/3/2024 Planning Commission Meeting; 9/9/2024 Park & Rec. Committee Meeting

D.2 Bill List as of 9/10/2024

D.3 Profit & Loss / Budget Comparison Report as of 9/10/2024

Melanie Lee made a motion to approve. Danny Rubio seconded. Motion carried 5-0

E. Visitors

F. Committee Reports:

Maintenance / Sewer and Water / Road and Bridges

No report.

Law Enforcement

The City Council reviewed the Statistics Reports for August 2024. Deputy Martin noted that she has had a training officer with her much of the time, so her numbers don't reflect her statistics. There have been concerns about people not stopping for a stop sign in the Providence Addition as well as people driving the wrong way on the roundabout on Carmel Trail. It was noted that during ball tournaments, drivers were driving into the west entrance of 191st Street now that the street is a right turn exit only street. Law enforcement will be on the lookout for violators.

Park & Rec

Eric Hanson reported that the Park & Rec. Committee checked into a Fix-it app for residents to report issues, but it is cost prohibitive. The Empire Celebration served 645 attendees. Future programming may include a Geocache group. The Farmington Band was a big success, however there was a lack of water available in the hot weather. The Band would like to sell water next year.

Engineering

1. **Update on Street Improvement Project**
   It was reported that the mill and overlay portion of the project will take place next week and be completed by the end of the week. Restoration took place along the street reconstruction portion of this project. Some restoration was completed in the trail area but has not been completed according to project specifications.

Planning

1. **Consider Approving CUP Amendment for Dakota Area Transfer (NHCC Properties LLC)** Jenni Faulkner reported that the amended CUP includes the construction of a turn lane on County Road 81 to accommodate truck traffic, based on the recommendation of the traffic study; and clarifies that occupancy of the facility will not be permitted until permits from the MPCA and Dakota County are obtained. The amendment also requires acknowledgement and acceptance of the Fire Department Action Contingency Plan from the responding agencies and requires that the city be notified if emergency services are requested. The Planning Commission recommended approval after the public hearing that was held on September 3rd.

   Melanie Lee made a motion to approve. Danny Rubio seconded. Motion carried 5-0

2. **Consider Adopting Ordinance No. 2024-5, Amending the Zoning Ordinance to Update Provisions Related to Retail Sales in the AG District**
   Jenni Faulker reported that the proposed amendment pertains to the AG District allows for the sale of agricultural products grown or raised on any farm. The amendment also allows for an IUP to be considered for the sale of ancillary products and the building of a barn for the sale of agricultural products on a working farm of 10 acres or more. At a public hearing on the proposed amendment, the Planning Commission received positive feedback on the amendment and recommended approval.

   Eric Hanson made a motion to approve. Melanie Lee seconded. Motion carried 5-0

Jenni Faulkner reported that there will be a public hearing in October on the revised preliminary plat for the Deer Creek development, the Planning Commission and Council will review a draft letter to the Met Council regarding new density requirements, and next week the Planning Commission will review a draft cannabis ordinance.

G. Old Business
None.

H. New Business

H.1 Consider Approving Food Truck MFU Licenses (Pulled from Consent Agenda)

Council discussed the request to waive the application fee for the seasonal permit for Faith United Methodist Church. It was recommended that the fee be set at $50 and that the Planning Commission discuss the fee structure in the mobile food unit ordinance to see if there should be a category for non-profit mobile food units.
Marla Vagts made a motion to approve the MFU License applications. Melanie Lee seconded. Motion carried 5-0.

H.2 Consider Adopting Resolution 2024-9A, Adopting Proposed 2024 Tax Levy, Collectable in 2025

It was reported that recommended adjustments were made to the draft budget. The proposed tax levy increase is 6.71%, with the projected tax capacity increase taken into consideration, tax burden is projected to increase by 2.79% with the proposed budget. The City Council recommended that prior to the adoption of the final budget, staff research what the city could receive in revenue for the sale of the old plow truck. This revenue may be added to the sale of assets in the final budget.

Danny Rubio made a motion to adopt Resolution 2024-9A, Adopting Proposed 2024 Tax Levy, Collectable in 2025. Marla Vagts seconded. Motion carried 5-0

H.3 Consider Setting Date for 2025 Budget Public Comment Meeting

Eric Hanson made a motion to set the 2025 Budget Public Comment Meeting for Tuesday, November 26th at 7:00 PM. Marla Vagts seconded. Motion carried 5-0.

H.4 Information on Metro Cities

The City Council reviewed information on Metro Cities. The Metro Cities organization provides support and collective representation to organizations such as the Met Council. Council discussed the benefits of joining Metro Cities, especially with the upcoming regulations for development standards. The Council directed staff to being the process of joining Metro Cities effective January 1, 2025.

Melanie Lee made a motion to approve. Marla Vagts seconded. Motion carried 5-0

H.5 Consider Installation of a new Street Light at the Intersection of Highway 3 and 205th St. Ct.

It was reported that a resident near the intersection requested that a streetlight be added to the intersection to improve visibility. Deputy Martin observed that lighting at the intersection is not adequate. Xcel Energy would install a new pole and light at the intersection for the fee presented. Funding would come from the city's street light revenue fund. Staff should notify residents adjacent to the new light before it is installed.

Eric Hanson made a motion to approve. Melanie Lee seconded. Motion carried 5-0

I. Meetings: Planning Commission 9/17/24, 8:00 PM; DCTOA Fall Meeting 9/18/24, 7:00 PM, Farmington Extension Bldg.; Park & Rec. 9/23/24, 7:00 PM; City Council 9/24/24, 7:00 PM

J. FYI

J.1 Letter from Minnesota Dept. of Health on Quarterly Radiochemical Monitoring

K. Adjournment

Melanie Lee made a motion to adjourn. Marla Vagts seconded. The City Council Meeting ended at 7:50 PM.

_____

Trent Larson, Mayor

_____

Charles Seipel-Teng, Clerk - Administrator

CITY OF EMPIRE

Empire Planning Commission Meeting Minutes
September 17, 2024, 8:00 PM

Present were: Jared Sachs, Doug Clark, Gina Maunu. Also present were Marla Vagts, Charles Seipel-Teng, and Jenni Faulkner.
Absent were: Elizabeth Haas, Julie Stulz

1. Agenda Items

1.1 Request to Transfer One Residential Building Right from PID 12-03300-01-020 to 12-02700-52-012

The Planning Commission reviewed a request for the transfer of residential building rights from the Phyllis Betzold Trust parcel to a parcel owned by Bruce & Paula Betzold. Both parcels are on 210th Street. There are no parcel splits proposed with the transfer. The grantor parcel contains three building rights, and the grantee parcel contains no building rights. The parcels are located in sections that are permitted to transfer building rights according to the zoning ordinance and the grantee parcel meets the zoning ordinance requirements for minimum lot size and road frontage. If approved, the transfer would be completed through a declaration of restriction for development rights agreement that will be recorded with the Dakota County Recorder. Jared Sachs asked if there is sufficient space for septic on the property. Bruce Betzold stated that there is room for a proposed mound septic system.

Jared Sachs made a motion to recommend approval of the residential building rights transfer. Doug Clark seconded. Motion carried 3-0.

1.2 Request for Direction on Meeting Zoning Requirements for Glenhaven Site (George Maverick)

It was reported that Glenhaven Events is proposing to install ground mounted solar panels on their property in addition to the wedding chapel that was approved through an amended CUP for the site back in April. When the wedding chapel was approved, conditions included the requirement for updated site plans that showed that the property at or below 25% lot coverage and that there was adequate parking for the maximum capacity at the event center, with maximum capacity currently at 350 people. Jenni Faulkner noted that there is a difference between impervious surface coverage and lot coverage. Lot coverage maximums were written into the zoning ordinance to preserve open space in the AG District.

George Maverick is seeking guidance on how to proceed with his proposed plans and provided a site plan that shows the addition of the solar panels and wedding chapel with the removal of other items currently covering the lot. The plans do not provide adequate parking. The Planning

Commission determined that a variance from the lot coverage provision in the zoning ordinance is not appropriate in this case. Plans can be revised to include solar arrays over car ports in the parking lot, the elimination of a partial driveway in the southeast corner of the parking lot, the reduction of maximum capacity and corresponding reduction in parking lot size, or the removal of the existing house or storage shed on the site. Mr. Maverick will consider options to reduce lot coverage.

1.3 Discussion on Cannabis Regulation

Jenni Faulkner presented information on options for regulating cannabis. State law allows for the growing and selling of cannabis and the city currently has a moratorium on cannabis related businesses that runs until the end of 2024. The Commission reviewed the types of businesses now permitted by statute and zoning districts in Empire that these types of businesses could potentially operate in. According to State law, the city may not prohibit licensed cannabis businesses and cannot license them. Licensing is handled by the State Office of Cannabis Management (OCM). The city can determine which zoning districts allows specific uses, establish a minimum distance from schools, residential treatment facilities, and playgrounds/ ballfields located in parks; establish hours of operation; and regulate items such as signage, noise and odor.
The city can also prohibit usage of cannabis in public spaces and cannabis related events.
If the city requires registration, based on Empire's population, the city could limit the number of retail establishments to one location.

Staff recommends amending the zoning ordinance to add definitions specific to cannabis and hemp operations, define specific cannabis and hemp uses, determine where those uses should be permitted and determine performance standards. Staff is also recommending the development of a specific cannabis and hemp ordinance that outlines the registration process and fees.

The Planning Commission recommended that the ordinance be as conservative as possible in relation to operating hours and locations; permit retail only in the Highway Commercial District; require registration through the city for now with reconsideration if and when Dakota County requires registration; staff provide more information on security, fencing, and lighting that will be required for cultivation, manufacturing and retail; determine if specific setbacks can be required for cannabis related businesses; if a business bringing employees to a building on the site could require an IUP; more information be provided on mezzo businesses and what needs to be allowed for their operation; and the consideration of prohibiting consumption of cannabis products in public places and cannabis related events.

1.4 Met Council 2050 Comprehensive Plan - Draft Letter

Jenni Faulkner presented a draft letter to the Metropolitan Council regarding the Imagine 2050 Draft Land Use Policy Plan. The letter contains several requests for clarification and recommendations on policy considerations. The letter requests information on any potential "look back" provisions regarding density and expresses concerns about the proposed density requirements and the limited opportunity for large lot rural development in the proposed plan. The City Council will review the draft letter before it is sent to the Metropolitan Council. It is anticipated that the final policy plans will be adopted in early 2025.

Doug Clark made a motion to adjourn. Gina Maunu seconded. Meeting ended at 9:36 PM.

Park and Recreation Commission Minutes

September 23, 2024

Chair Kacie Fahey called the meeting to order. Present were Kacie Fahey, Mark Page, Tanya Borchardt, Amanda Stender, Nicole Bower, Josh Lindgren, Danny Rubio, Dawn McCracken and Charles Seipel-Teng.

Anna Springer, with Bolten-Menk, presented the Empire Parks survey results. She also went over the vision statement and guiding principles which include being accessible, educational, conservation-minded, connected, forward-thinking and resourceful. Anna reviewed the existing amenities and facilities of the current parks and other natural spaces.

The next phase of the park plan will be to

- Develop recommendations in October
- Review recommendations with the Parks and Recreation Committee in November
- Develop a draft Plan November/December
- Final plan review with Parks and Recreation Committee in December
- Council approval- December/January

Jerod and Dawn researched a 12 ft. tree option for the future holiday tree lighting from Green Acres in Hasting. The cost will be $1,000.00 which is all inclusive. The price will include the planting as well as a 1-year warranty. Green Acres recommended planting either a Balsam Fir or a Norway Spruce. The Committee chose a Balsam Fir. A previous consideration, a White Spruce, was not recommended. The first tree lighting ceremony will be in the winter of 2025.

The Committee chose an inflatable reindeer costume to replace the Frosty costume from last year. Jill has agreed to return in the roll of Mrs. Claus for the Holiday Party.

The STS crew will be returning on Wednesday to do the Fall cleanup of the flower beds and roundabout.

The meeting was adjourned.

MEMORANDUM

Date:	September 24, 2024
To:	Empire City Council
From:	Charles Seipel-Teng, Clerk-Administrator
RE:	Bill List as of 9/24/2024

Attachment(s): *Bill List.pdf*

City of Empire

Claims List for Approval (September 11- September 24, 2024)

13-Sep-24	27564	Carquest Auto Parts Stores	Park Equip. Parts/ Shop Supply	415.89
24-Sep-24	27568	Bolton & Menk Inc.	Planning Services	17,404.00
24-Sep-24	27569	Campbell Knutson	Prosecuting Attorney	1,164.04
24-Sep-24	EFT	Castle Rock Bank	Stop Payment on CK#27450	30.00
24-Sep-24	27570	CCP NI Master Tenant 4, LLC	Electricity	1,582.92
24-Sep-24	27571	CIT	September 365 Agreement / Octo	241.00
24-Sep-24	27572	Core & Main, LP	Irrigation Meter	901.20
24-Sep-24	27573	ECM Publishers	Legal Publications	120.00
24-Sep-24	27574	Flyte HCM	Flex Plan	36.74
24-Sep-24	27575	Hawkins Water Treatment	Chlorine Cylinder	20.00
24-Sep-24	27576	League of MN Cities	4-Month Membership Dues	1,341.00
24-Sep-24	27577	McNamara Contracting Inc.	Pay Request #3	138,633.08
16-Sep-24	EFT	Minnesota Dept. of Revenue	State Withholding	588.53
16-Sep-24	EFT	PERA	Retirement	2,080.58
24-Sep-24	27578	Simones, Lucy	Bldg. Permit Refund 24-196/170	303.00
13-Sep-24	27565	Summit Fire Protection	Annual Fire Extinguisher Inspections	670.27
24-Sep-24	27579	U.S.A. Inflatables	Empire Celebration (Less Stop Pay	1,040.23
16-Sep-24	EFT	United States Treasury	Federal Withholding	3,288.15
24-Sep-24	27580	USAble Life	Life & Disability Ins.	386.57
16-Sep-24	27566	USABlueBook	Water Testing Supplies	26.20
18-Sep-24	27567	Xcel Energy	Electricity	1,648.78
24-Sep-24	27581	Xcel Energy	Electricity	84.94

Subtotal	172,007.12
Payroll	10,561.82
Total	**182,568.94**

MEMORANDUM

Date: September 24, 2024

To: Empire City Council

From: Charles Seipel-Teng, Clerk-Administrator

RE: Cash Balance Report as of 9/24/2024

Attachment(s): Cash Account Balances 2024.pdf

CITY OF EMPIRE CASH BALANCES

1/1/2024

GENERAL FUND	
GENERAL CHECKING	$135,665.04
GENERAL SAVINGS	$2,370,930.64
TOTAL GENERAL	**$2,506,595.68**
ROAD & BRIDGE SAVINGS	**$253,151.38**
CERTIFICATES OF DEPOSIT (MATURITY)	
60 MONTH CD (1/23/2026)	$943,794.44
60 MONTH CD 2 (1/23/2026)	$943,794.44
60 MONTH CD 3 (1/23/2026)	$943,794.44
30 MONTH CD (2/11/2026)	$866,614.56
24 MONTH CD (12/13/2025)	$639,694.25
24 MONTH CD 2 (12/13/2025)	$639,694.25
60 MONTH CD (7/14/2027)	$1,230,351.81
TOTAL CD	**$6,207,738.19**
TOTAL CHECKING & SAVINGS	**$8,967,485.25**
ESCROW CHECKING	$3,059.65
ESCROW SAVINGS	$23,579.78
TOTAL ESCROW	**$26,639.43**
FLEX CHECKING	**$2,129.15**
12 MONTH CD (SOLAR ESCROW 5	**$121,589.68**
TOTAL	**$9,117,843.51**

CITY OF EMPIRE CASH BALANCES

AS OF 9/24/2024

GENERAL FUND		Int. Rate
GENERAL CHECKING	$37,561.71	0.05%
GENERAL SAVINGS	$1,872,937.34	0.75%
TOTAL GENERAL	**$1,910,499.05**	
ROAD & BRIDGE SAVINGS	**$253,782.92**	0.50%
CERTIFICATES OF DEPOSIT		
60 MONTH CD	$950,897.10	1.00%
60 MONTH CD 2	$950,897.10	1.00%
60 MONTH CD 3	$950,897.10	1.00%
30 MONTH CD	$886,278.06	3.00%
24 MONTH CD	$659,742.20	3.50%
24 MONTH CD 2	$659,742.20	3.50%
60 MONTH CD	$1,248,916.54	2.00%
TOTAL CD	**$6,307,370.30**	
TOTAL CHECKING & SAVING	**$8,471,652.27**	
ESCROW CHECKING	$7,059.65	
ESCROW SAVINGS	$10,091.54	0.10%
TOTAL ESCROW	**$17,151.19**	
FLEX CHECKING	**$1,829.78**	0.05%
12 MONTH CD (SOLAR ESCR(	**$125,729.81**	4.40%
TOTAL	**$8,616,363.05**	

MEMORANDUM

Date:	September 24, 2024
To:	Empire City Council
From:	Charles Seipel-Teng, Clerk-Administrator
RE:	Consider Approving Food Truck (MFU) Licenses

BD Sammies; Brand Farms; Sept. 28 / Oct. 19, 20
Deja Brewz, LLC; Crazy Legs Farms; All weekends in October (Seasonal)

MEMORANDUM

Date:	September 24, 2024
To:	Empire City Council
From:	Charles Seipel-Teng, Clerk-Administrator
RE:	Liquor License for Newman Golf Investors, LP (Southern Hills Golf Course)

Newman Golf Investors, LP is applying to renew their liquor licenses for the 2025 Calendar Year. The license types are an On-Sale Intoxicating and On-Sale Sunday.

Attachment(s): Southern Hills Liquor Application.pdf

CITY OF EMPIRE

August 27, 2024

Newman Golf Investors, LP dba Southern Hills Golf Course
PO Box 722
Wayzata, MN 55391

Re: License Renewal
City of Empire, MN

Dear Mr. Newman,

Enclosed you will find the following items for the renewal of the On-Sale Intoxicating and On-Sale Sunday liquor licenses for Southern Hills Golf Course in Empire for the one year period beginning January 1, 2025.

This includes the following items:

1. Application for Intoxicating and 3.2 Percent Malt Liquor and Other Related Liquor Licenses (City of Empire form). Please fill out as was done for your 2024 application if you are applying for the same types of licenses as last year.

2. Renewal of Liquor, Wine, Club or 3.2% Licenses (State form). Sign, enter social security number, DOB, and date as indicated. Also fill out anything that pertains to your business as asked for on the back page. When returned to me, I will obtain the County Sheriff's signature.

3. Annual license fee--$3,700 ($3,500 on-sale, $200 Sunday Liquor on-sale).

Since this is a renewal, the background and financial investigation and public hearing are not required.

Please return these completed items to me along with the other required documentation that is listed on the Empire License Application (**Proof of Insurance Forms, Documentation of Minnesota Alcohol & Gambling Enforcement License, Minnesota Dept. of Health Food and Beverage Handlers License, Tax ID, Federal ID and Retailers Buyers Card**) so that they can be submitted to the State.

Please let me know if you have any questions.

Sincerely,

Charles Seipel-Teng
Clerk-Administrator

Enclosures

Application for Intoxicating and 3.2 Percent Malt Liquor
And Other Related Liquor Licenses
CITY OF EMPIRE, MN

Type of License (Per Ordinance 285, Section 9)

On Sale Intoxicating $3,500.00 / On Sale Sunday $200.00

New License____; License Transfer____; Renewal License__x__

License Period From 1/1/2025 to 12/31/2025

License Fee $ 3,700.00 Date Fee Paid _____

Name/Names of Applicant(s) Newman Golf Investors, LP dba Southern Hills Golf Course

Address 18950 Chippendale Ave. Farmington, MN 55024 (Mailing: PO Box 722 Wayzata, MN 55391)

Phone Number (651) 463-4653 Email Address ap@newmangolf.com

Applicant's Date of Birth [redacted]

References (Preferably from Banks and Food & Beverage Businesses) (Minimum Three)
(Name and Address of References)

1. Sterling State Bank 16366 Kenrick Ave Lakeville, MN 55044 - Paul Rime (952) 892-3997 prime@Sterlingstate.bank
2. College City Beverage 700 Railway St. S. Dundas, MN 55019 - Judy Thomas (507) 645-4106 judythomas@collegecitybeverage.com
3. Hy-Vee Lakeville #1356 16150 Pilot Knob Rd. Lakeville, MN 55044 - Natalie Tabor (952) 423-9340 1356acctmgr@hy-vee.com
4. Breakthru Beverage 701 Industrial Blvd NE Mpls, MN 55413 - Marnie Force-Hawkins (651) 603-3661 mforcehawkins@breakthrubev.com
5. Johnson Brothers 1999 Shepard Rd. St. Paul, MN 55116 - Mauri Nichols (612) 695-3540 mnichols@johnsonbrothers.com

Description of Business in Connection With Which the Proposed License Will Operate

Southern Hills is a golf course that operates with a bar and grill that serves golfers and guests beer, seltzers, mixed drinks, etc. both inside the clubhouse as well as mobility throughout the property by beverage cart.

Location of Business 18950 Chippendale Avenue Farmington, MN 55024

Description of Business Premises Southern Hills premises for alcohol sale covers both the clubhouse and pavilion buildings, as well as all 18 holes on the property.

Is Applicant Owner and/or Operator of Business? Yes

Name and Address of Person Who Will Be Responsible for Operating the Business on a Day-to-Day Basis Jared Perrault, Director of Operations
18950 Chippendale Ave. Farmington, MN 55024
(651) 463-4653 x3 jperrault@newmangolf.com

Description of Applicant's/Operator's Experience in Food and Beverage Business

All of our operators are experienced and trained in the sale and compliance with all state and local laws with serving our guests.

Any Other Information Relevant to This Application

Background and Financial Investigation A background and financial investigation must be completed prior to final action by the Empire City Council on this application (For new applications).

I hereby certify that the information in this application is true and correct. Permission is granted to the City of Empire or its representatives to obtain information from your references and any other sources that are relevant to evaluating this application.

Applicant's Signature

9/9/2024
Date

Graydon K. Newman, Jr
President of Newman Asset Management, Inc.
General Partner of Newman Golf Investors, LP

ADDITIONAL INFORMATION/DOCUMENTATION

Upon acceptance of this application by the Empire City Council, the Applicant is required to provide the City with the following items, for completion of the licensing requirements:

1. Proof of financial responsibility through carrying liquor liability insurance pursuant to M.S. 340A.409, with minimum coverage of "at least $50,000 of coverage because of bodily injury to any one person in any one occurrence, $100,000 because of bodily injury to two or more persons in any one occurrence, $10,000 because of injury to or destruction of property of others in any one occurrence, $50,000 for loss of means of support of any one person in any one occurrence, and $100,000 for loss of means of support of two or more persons in any one occurrence, $50,000 for other pecuniary loss of any one person in any one occurrence, and $100,000 for other pecuniary loss of two or more persons in any occurrence."
2. Certificate of insurance showing proof of property, general liability and workers' compensation insurance coverage's.
3. Approval of license by Alcohol & Gambling Enforcement of the Minnesota Department of Public Safety.
4. Issuance of a Food and Beverage Handlers License by the Minnesota Department of Health.
5. Minnesota Tax ID Number.
6. Federal Tax ID Number (or Social Security Number).
7. Retailers Buyers Card issued by Alcohol & Gambling Enforcement for the Minnesota Department of Public Safety.

MEMORANDUM

Date:	September 24, 2024
To:	Empire City Council
From:	Charles Seipel-Teng, Clerk-Administrator
RE:	1. Consider Approving Pay Request #3 - McNamara Contracting / Project Update

Attachment(s): *131646_IRA_Pay App #3 - Engineer Signed.pdf*
131646_Weekly Meeting 20240917.pdf
2024 Street & Parking Lot Expenses.xlsx

CONTRACTOR'S PAY REQUEST

2024 STREET IMPROVEMENTS

CITY OF EMPIRE -
BMI PROJECT NO. 0T1.131646

BOLTON & MENK
Real People. Real Solutions.

DISTRIBUTION:
CONTRACTOR (1)
OWNER (1)
ENGINEER (1)

TOTAL AMOUNT BID PLUS APPROVED CHANGE ORDERS	$946,118.35
TOTAL, COMPLETED WORK TO DATE	$456,865.46
TOTAL, STORED MATERIALS TO DATE	$0.00
DEDUCTION FOR STORED MATERIALS USED IN WORK COMPLETED	$0.00
TOTAL, COMPLETED WORK & STORED MATERIALS	$456,865.46
RETAINED PERCENTAGE (5.0%)	$22,843.27
TOTAL AMOUNT OF OTHER PAYMENTS OR (DEDUCTIONS)	$0.00
NET AMOUNT DUE TO CONTRACTOR TO DATE	$434,022.19
TOTAL AMOUNT PAID ON PREVIOUS ESTIMATES	$295,389.11
PAY CONTRACTOR AS ESTIMATE NO. 3	$138,633.08

CERTIFICATE FOR PARTIAL PAYMENT

I hereby certify that, to the best of my knowledge and belief, all items quantities and prices of work and material shown on this Estimate are correct and that all work has been performed in full accordance with the terms and conditions of the Contract for this project between the Owner and the undersigned Contractor, and as amended by any authorized changes, and that the foregoing is a true and correct statement of the contract amount for the period covered by this Estimate.

Contractor: McNamara Contracting, Inc.
16700 Chippendale Avenue
Rosemount, MN 55068

By Aaron Anderson Digitally signed by Aaron Anderson
DN: C=US, E=aarona@mcnamaracontracting.com, O=McNamara Contracting, OU=Contractor, CN=Aaron Anderson
Reason: I agree to the terms defined by the placement of my signature on this document
Date: 2024.09.10 13:37:05-05'00'

Name Title

Date _____

CHECKED AND APPROVED AS TO QUANTITIES AND AMOUNT:
ENGINEER: BOLTON & MENK, INC., 12224 NICOLLET AVE, BURNSVILLE, MN 55337

By Bradley Lisher _____, CONSULTING ENGINEER

Date 09/10/2024

APPROVED FOR PAYMENT:
OWNER:

By _____
Name Title Date

And _____
Name Title Date

Pay Request No.: 3

2024 STREET IMPROVEMENTS

BOLTON & MENK
Real People. Real Solutions.

CITY OF EMPIRE
BMI PROJECT NO. 0T1.131646
WORK COMPLETED THROUGH FRIDAY, AUGUST 30, 2024

ITEM NO.	ITEM	UNIT PRICE	AS BID		PREVIOUS ESTIMATE		COMPLETED TO DATE	
			ESTIMATED QUANTITY	ESTIMATED AMOUNT	ESTIMATED QUANTITY	ESTIMATED AMOUNT	ESTIMATED QUANTITY	ESTIMATED AMOUNT
1	MOBILIZATION	$22,500.00	0.99 LUMP SUM	$22,275.00	0.50 LUMP SUM	$11,250.00	0.70 LUMP SUM	$15,750.00
2	CLEARING	$5.00	2.00 EACH	$10.00	3.00 EACH	$15.00	3.00 EACH	$15.00
3	GRUBBING	$300.00	2.00 EACH	$600.00	3.00 EACH	$900.00	3.00 EACH	$900.00
4	REMOVE CASTING (SANITARY)	$100.00	3.00 EACH	$300.00	0.00 EACH	$0.00	0.00 EACH	$0.00
5	REMOVE CASTING (STORM)	$100.00	5.00 EACH	$500.00	0.00 EACH	$0.00	1.00 EACH	$100.00
6	REMOVE VALVE BOX	$800.00	2.00 EACH	$1,600.00	0.00 EACH	$0.00	1.00 EACH	$800.00
7	REMOVE SIGN	$52.00	2.00 EACH	$104.00	0.00 EACH	$0.00	2.00 EACH	$104.00
8	SAWING CONCRETE PAVEMENT (FULL DEPTH)	$1.50	140.00 LIN FT	$210.00	32.50 LIN FT	$48.75	32.50 LIN FT	$48.75
9	SAWING BITUMINOUS PAVEMENT (FULL DEPTH)	$1.50	560.00 LIN FT	$840.00	22.00 LIN FT	$33.00	22.00 LIN FT	$33.00
10	REMOVE CURB & GUTTER (SPOT)	$10.00	2,220.00 LIN FT	$22,200.00	20.00 LIN FT	$200.00	1,697.00 LIN FT	$16,970.00
11	REMOVE BITUMINOUS PAVEMENT	$2.00	2,730.00 SQ YD	$5,460.00	2,730.00 SQ YD	$5,460.00	2,730.00 SQ YD	$5,460.00
12	REMOVE BITUMINOUS WALK	$1.50	1,150.00 SQ FT	$1,725.00	1,150.00 SQ FT	$1,725.00	1,150.00 SQ FT	$1,725.00
13	REMOVE CONCRETE WALK	$1.50	1,150.00 SQ FT	$1,725.00	1,150.00 SQ FT	$1,725.00	1,150.00 SQ FT	$1,725.00
14	REMOVE CONCRETE RIBBON CURB	$4.00	460.00 LIN FT	$1,840.00	460.00 LIN FT	$1,840.00	460.00 LIN FT	$1,840.00
15	EXCAVATION - COMMON	$20.00	2,230.00 CU YD	$44,600.00	2,230.00 CU YD	$44,600.00	2,230.00 CU YD	$44,600.00
16	EXCAVATION - SUBGRADE	$20.00	99.00 CU YD	$1,980.00	465.00 CU YD	$9,300.00	469.00 CU YD	$9,380.00
17	COMMON EMBANKMENT	$30.00	10.00 CU YD	$300.00	10.00 CU YD	$300.00	10.00 CU YD	$300.00
18	STABILIZING AGGREGATE	$20.00	99.00 CU YD	$1,980.00	465.00 CU YD	$9,300.00	467.00 CU YD	$9,340.00
19	GEOTEXTILE FABRIC TYPE V	$0.50	2,976.00 SQ YD	$1,488.00	2,976.00 SQ YD	$1,488.00	2,976.00 SQ YD	$1,488.00
20	SUBGRADE PREPARATION (TRAIL)	$3.00	2,420.00 SQ YD	$7,260.00	2,420.00 SQ YD	$7,260.00	2,420.00 SQ YD	$7,260.00
21	STREET SWEEPER (WITH PICKUP BROOM)	$100.00	40.00 HOUR	$4,000.00	0.00 HOUR	$0.00	0.00 HOUR	$0.00
22	AGGREGATE BASE CLASS 5	$40.00	720.00 CU YD	$28,800.00	720.00 CU YD	$28,800.00	720.00 CU YD	$28,800.00
23	FULL DEPTH RECLAMATION (TRAIL)	$2.50	2,420.00 SQ YD	$6,050.00	2,420.00 SQ YD	$6,050.00	2,420.00 SQ YD	$6,050.00
24	REMOVE AND PATCH BITUMINOUS PAVEMENT	$12.00	2,460.00 SQ YD	$29,520.00	2.00 SQ YD	$24.00	2.00 SQ YD	$24.00
25	MILL BITUMINOUS SURFACE (2.0")	$1.00	24,600.00 SQ YD	$24,600.00	0.00 SQ YD	$0.00	0.00 SQ YD	$0.00
26	BITUMINOUS MATERIAL FOR TACK COAT	$2.50	1,670.00 GAL	$4,175.00	0.00 GAL	$0.00	0.00 GAL	$0.00
27	TYPE SP 9.5 WEARING COURSE MIXTURE (3,B)	$70.00	2,810.00 TON	$196,700.00	0.00 TON	$0.00	0.00 TON	$0.00
28	TYPE SP 9.5 WEARING COURSE MIXTURE (3,C)	$86.00	620.00 TON	$53,320.00	331.86 TON	$28,539.96	331.86 TON	$28,539.96
29	15" RC PIPE APRON	$2,350.00	1.00 EACH	$2,350.00	1.00 EACH	$2,350.00	1.00 EACH	$2,350.00
30	15" RC PIPE SEWER CLASS V	$88.00	131.00 LIN FT	$11,528.00	131.00 LIN FT	$11,528.00	131.00 LIN FT	$11,528.00
31	CONNECT TO EXISTING WATERMAIN	$2,100.00	6.00 EACH	$12,600.00	2.00 EACH	$4,200.00	2.00 EACH	$4,200.00
32	VALVE BOX	$1,700.00	2.00 EACH	$3,400.00	0.00 EACH	$0.00	1.00 EACH	$1,700.00
33	8" GATE VALVE AND BOX	$5,000.00	3.00 EACH	$15,000.00	1.00 EACH	$5,000.00	1.00 EACH	$5,000.00
34	INSTALL SPRINKLER HEAD	$45.00	110.00 EACH	$4,950.00	0.00 EACH	$0.00	0.00 EACH	$0.00
35	INSTALL SPRINKLER SYSTEM	$6.00	1,110.00 LIN FT	$6,660.00	0.00 LIN FT	$0.00	0.00 LIN FT	$0.00
36	8" WATERMAIN DUCTILE IRON CL 52	$265.00	30.00 LIN FT	$7,950.00	5.00 LIN FT	$1,325.00	5.00 LIN FT	$1,325.00
37	DUCTILE IRON FITTINGS	$15.00	135.00 LBS	$2,025.00	45.00 LBS	$675.00	45.00 LBS	$675.00
38	ADJUST VALVE BOX	$200.00	12.00 EACH	$2,400.00	0.00 EACH	$0.00	2.00 EACH	$400.00
39	CASTING ASSEMBLY (SANITARY)	$1,500.00	3.00 EACH	$4,500.00	0.00 EACH	$0.00	0.00 EACH	$0.00
40	CASTING ASSEMBLY (STORM)	$1,200.00	10.00 EACH	$12,000.00	3.00 EACH	$3,600.00	4.00 EACH	$4,800.00
41	ADJUST FRAME & RING CASTING (SANITARY)	$1,000.00	40.00 EACH	$40,000.00	0.00 EACH	$0.00	2.00 EACH	$2,000.00
42	ADJUST FRAME & RING CASTING (STORM)	$250.00	40.00 EACH	$10,000.00	0.00 EACH	$0.00	44.00 EACH	$11,000.00
43	CONSTRUCT DRAINAGE STRUCTURE DESIGN SPECIAL (2'X3' CB)	$545.00	4.00 LIN FT	$2,180.00	4.00 LIN FT	$2,180.00	4.00 LIN FT	$2,180.00
44	CONSTRUCT DRAINAGE STRUCTURE DESIGN 48-4020	$575.00	11.00 LIN FT	$6,325.00	11.00 LIN FT	$6,325.00	11.00 LIN FT	$6,325.00
45	CONSTRUCT DRAINAGE STRUCTURE DESIGN 48-4022	$675.00	4.00 LIN FT	$2,700.00	4.00 LIN FT	$2,700.00	4.00 LIN FT	$2,700.00
46	RANDOM RIPRAP CLASS III	$130.00	8.00 CU YD	$1,040.00	8.00 CU YD	$1,040.00	8.00 CU YD	$1,040.00
47	6" CONCRETE WALK	$16.00	2,100.00 SQ FT	$33,600.00	2,195.50 SQ FT	$35,128.00	2,295.50 SQ FT	$36,728.00
48	3" BITUMINOUS WALK	$1.85	20,600.00 SQ FT	$38,110.00	20,338.00 SQ FT	$37,625.30	20,338.00 SQ FT	$37,625.30
49	3" BITUMINOUS WALK (RECON)	$3.50	1,150.00 SQ FT	$4,025.00	1,150.00 SQ FT	$4,025.00	1,150.00 SQ FT	$4,025.00
50	DRILL & GROUT REINF BAR (EPOXY COATED)	$10.00	40.00 EACH	$400.00	71.00 EACH	$710.00	71.00 EACH	$710.00

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			ESTIMATED QUANTITY	ESTIMATED AMOUNT	ESTIMATED QUANTITY	ESTIMATED AMOUNT	ESTIMATED QUANTITY	ESTIMATED AMOUNT
51	CONCRETE CURB & GUTTER DESIGN B618	$18.85	749.70 LIN FT	$14,131.85	637.00 LIN FT	$12,007.45	637.00 LIN FT	$12,007.45
52	CONCRETE CURB & GUTTER DESIGN B618 (SPOT)	$32.15	2,220.00 LIN FT	$71,373.00	163.00 LIN FT	$5,240.45	1,840.00 LIN FT	$59,156.00
53	TRUNCATED DOMES	$50.00	100.00 SQ FT	$5,000.00	88.00 SQ FT	$4,400.00	88.00 SQ FT	$4,400.00
54	LANDSCAPING RESTORATION ALLOWANCE	$1.00	15,000.00 DOL	$15,000.00	0.00 DOL	$0.00	0.00 DOL	$0.00
55	TRAFFIC CONTROL	$3,000.00	0.99 LUMP SUM	$2,970.00	0.25 LUMP SUM	$750.00	0.70 LUMP SUM	$2,100.00
56	SIGN PANELS TYPE C	$83.00	40.00 SQ FT	$3,320.00	0.00 SQ FT	$0.00	40.00 SQ FT	$3,320.00
57	STABILIZED CONSTRUCTION EXIT	$1,000.00	1.00 LUMP SUM	$1,000.00	0.00 LUMP SUM	$0.00	1.00 LUMP SUM	$1,000.00
58	STORM DRAIN INLET PROTECTION	$150.00	42.00 EACH	$6,300.00	2.00 EACH	$300.00	47.00 EACH	$7,050.00
59	SEDIMENT CONTROL LOG TYPE WOOD FIBER	$3.00	4,240.00 LIN FT	$12,720.00	3,656.00 LIN FT	$10,968.00	3,656.00 LIN FT	$10,968.00
60	COMMON TOPSOIL BORROW	$65.50	760.00 CU YD	$49,780.00	0.00 CU YD	$0.00	600.00 CU YD	$39,300.00
61	SODDING TYPE LAWN	$18.75	250.00 SQ YD	$4,687.50	0.00 SQ YD	$0.00	0.00 SQ YD	$0.00
62	ROLLED EROSION PREVENTION CATEGORY 20 W/ SEED MIXTURE	$15.25	4,263.00 SQ YD	$65,010.75	0.00 SQ YD	$0.00	0.00 SQ YD	$0.00
63	ROLLED EROSION PREVENTION CATEGORY 20 W/ SEED MIXTURE	$15.25	221.00 SQ YD	$3,370.25	0.00 SQ YD	$0.00	0.00 SQ YD	$0.00
64	4" SOLID LINE MULTI-COMPONENT	$2.00	1,575.00 LIN FT	$3,150.00	0.00 LIN FT	$0.00	0.00 LIN FT	$0.00
65	PAVEMENT MESSAGE MULTI-COMPONENT	$20.00	20.00 SQ FT	$400.00	0.00 SQ FT	$0.00	0.00 SQ FT	$0.00
							0	0
	TOTAL AMOUNT:			**$946,118.35**		**$310,935.91**		**$456,865.46**

BOLTON & MENK
Real People. Real Solutions.

12224 Nicollet Avenue
Burnsville, MN 55337-1649

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Fax: (952) 890-8065
Bolton-Menk.com

Weekly Progress Meeting Agenda

City of Empire

2024 Street Improvements Project

Tuesday September 17, 2024 at 10:00 a.m.

1. **Sign-In/Attendance –** Brad Fisher (BMI), Connor Kenefick (BMI), Jerod Waltman (City), ~~Charlie Seipel-Teng (City),~~ Aaron Anderson (McNamara),

2. **Project Schedule Update –** Three week look-ahead
   - **a.** Work completed over the past week
     - Outstanding irrigation repairs completed. One or two more will be addressed today and that will complete all known issues. If other issues are reported yet this fall, they will be added to the punchlist.
     - Completed restoration of the 5 landscaping locations on the punchlist.
     - Re-restoration of the areas around the trails were completed last week and is to an acceptable level. Will just review for growth before final acceptance.
     - Milling, base patching, and paving will be completed this week Tuesday through Thursday, weather dependent (will finish Friday if needed).

   - **b.** Next week(s) look-ahead
     - Parking lot restriping will take 2 days and will not be completed on a Tuesday to avoid meetings. Still awaiting updated schedule but anticipated next week.
       - Aaron to look into possibility of ground-in striping to remove existing to provide a better product as opposed to water blasting removal.
     - Project cleanup and punchlist.
   - **c.** Completion Dates
     Final bituminous wear paving shall be completed within a maximum of 10 calendar days from the commencement of pavement milling operations for any given block. Substantial Completion by 09/27/2024. Final Completion by 10/11/2024.

3. **Utility Coordination**

4. **Traffic Impacts**
   - **a.** Current Traffic Control comments/concerns
   - **b.** Upcoming Traffic Control Changes
     - No traffic control changes for the street work but the City Hall parking lot will be barricaded for closure when the restriping takes place.

Bolton & Menk is an equal opportunity employer.

5. Business, Residential and Community Access Needs

6. Public Communications and Notifications
- **a.** Weekly Update emailed out and posted on website each week.
- **b.** Notices needed for the upcoming week?

7. Permits
- **a.** MPCA Construction Stormwater Permit is active

8. Submittals
- **a.**

9. Plan Revisions
- **a.** Two GV's that were planned for installation with this project were found existing in the field. Now only one GV is planned for installation, west of Carlisle Court.
- **b.** Added concrete pad off of the trail at the back corner of the parking lot for the port-a-potty enclosure.

10. Old Business
- **a.**

11. New Business
- **a.**

12. Items to Track for Inclusion on Future Punchlist
- **a.** Repair SE most support column for the City Hall meeting room overhang that was damaged by equipment during construction (see photos). Glue/tack nail damaged pieces in place and utilize wood filler for missing pieces.
- **b.** Address non-draining trail segment by the Tennis Court (no cross slope to get water out – pools in middle of trail), per 8/6/2024 meeting discussion and photo.
    - McNamara indicated a trail patch is their only method for repair, unfortunately. Jerod to review options for repair and consider a swale in the turf between trail and curb to help alleviate most of the pooling water at the low point.
- **c.** Address parking lot striping issues (overspray and peeling/cracking of paint). Safety Signs plans to remove and replace the striping (work will not occur overnight or on a Tuesday).
- **d.** Landscaping (rocks/mulch/edging) restoration to match existing conditions at the following locations: around the mailboxes near 20169 Calgary Trl, around the mailboxes on Canberra Ct., 20124 Calgary Trl, 3193 199th St, and 3256 198th St. COMPLETED.
- **e.** Verify turf restoration meets specifications.

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13. Erosion Control

a. BMI staff completing required weekly MS4 inspections of the project. Any deficiencies will be sent out for correction.

b. City staff approved use of hydroseed on lawns in place of seed and blanket.

14. Construction Materials Testing

a. Status of current test results from Braun (Colin Keane is project contact)

b. Anticipated testing needs for the next week

- Only testing remaining is bituminous sampling. Connor has this scheduled.

15. Survey Requests

a. Need requests 48 hours in advance

16. Next Quantity Cutoff

a. August 30th – Approved and issued.

17. Weekly Updates

a. Brad to draft weekly update to be email blasted/posted on website indicating all work this past week and all work planned for next week. This will be sent to Rachel LeMire to an email blast/website update.

18. Next Meeting: No additional meetings scheduled. Will be scheduled, if needed.

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2024 STREET RECONSTRUCTION / PARKING LOT IMPROVEMENT PROJECT

PROPOSED PROJECT FUNDING

	DATE	AMOUNT
RESERVES / EQUITY		$1,543,300.00

DISBURSEMENTS	DATE	AMOUNT	PD DATE
CONTRACTOR (Mc NAMARA CONTRACTING) BID AWARD $946,118.35			
Pay Reqeust #1	6/18/2024	$ 227,568.37	6/25/2024
Pay Request #2	7/16/2024	$67,820.74	7/23/2024
Jirik Sod Farms (Parking Lot Sod)	7/23/2024	$7,560.00	8/13/2024
Pay Request #3	9/10/2024	$138,633.08	9/24/2024
Total Contractor		$ 441,582.19	
Contract Total		*$946,118.35*	
Remaining		*$504,536.16*	
ENGINEER			
Inv. #0321160	9/27/2023	$11,350.00	10/10/2023
Inv. #0323014	10/23/2023	$5,507.50	11/14/2023
Inv. #0324916	11/22/2023	$7,642.00	12/12/2023
Inv. #131646	12/19/2023	$21,702.35	1/9/2024
Inv. #0328696	1/19/2024	$19,216.50	2/13/2024
Inv. #0330810	2/27/2024	$34,478.00	3/12/2024
Inv. #0332500	3/22/2024	$33,056.00	4/9/2024
Inv. #0334705	4/25/2024	$13,916.00	5/14/2024
Inv. #0336385	5/21/2024	$6,825.12	6/11/2024
Inv. #0338654	6/20/2024	$16,771.26	7/9/2024
Inv. #0340907	7/23/2024	$20,035.00	8/13/2024
Inv. #0343316	8/21/2024	$19,078.70	8/27/2024
Total Engineer		*$209,578.43*	

TOTAL DISBURSEMENTS	$651,160.62
FUNDS REMAINING	$892,139.38

MEMORANDUM

Date:	September 24, 2024
To:	Empire City Council
From:	Charles Seipel-Teng, Clerk-Administrator
RE:	1. Request to Transfer One Residential Building Right from PID 12-03300-01-020 to 12-02700-52-012

The property owners, Phyllis J Betzold Trust (Grantor) and Bruce & Paula Betzold (Grantee), are requesting that one residential building right be transferred from and to the parcel IDs noted on the Declaration of Restriction for Development Rights Agreement.

Section 6.13 of the Zoning Ordinance covers residential building rights transfers.
The Planning Commission and City Council must verify the eligibility of the residential building right to be transferred.
According to the City's database, the grantor parcel currently contains three building rights and the grantee parcel contains no building rights.

At their September 17th Meeting, the Planning Commission recommended approval of the building right transfer.
The proposed grantee parcel contains no structures and is 32.06 acres and has approximately 840 feet of road frontage on 210th Street W.

If approved, the agreement will be recorded with the Dakota County Recorder and provide that the grantor parcel will contain two remaining building rights and the grantee parcel will contain one building right.

Attachment(s): *Betzold Bldg Right Transfer.doc*
Zoning Ord Section 6.19.docx
Grantor Parcel.pdf
Grantee Parcel.pdf
Bldg Right Transfer Map.pdf
Bldg Right Transfer.pdf

12-03300-01-020
Grantor Site Parcel Identification Number

12-02700-52-012
Grantee Site Parcel Identification Number

DECLARATION OF RESTRICTION
FOR
DEVELOPMENT RIGHTS

THIS Declaration of Restriction is executed this ___ day of _____, 2024 by Phyllis Betzold (Phyllis J Tste Betzold) and Bruce M & Paula J Betzold, a married couple, hereinafter referred to as "Declarant(s)".

The residential development rights for ONE residential dwelling site(s) from the following described property which shall be referred to as the "Grantor Site":

NE 1/4 EX BEG NE COR W ON N LINE 220.00 FT S 1104.00 FT N 87D46M15S W 787.02 FT S 01D41M32S W 977.33 FT S 02D06M48S E 566.32 FT TO S LINE NE 1/4 E ON S LINE 1009.16 FT TO SE COR NE 1/4 N ON E LINE 2618.19 FT TO BEG SECTION 33, TOWNSHIP 114, RANGE 19

are transferred to the following described property which shall be referred to as the "Grantee Site":

SE ¼ OF SW ¼ EX BEG SE COR W ALONG S LINE 477.22 FT N 8D43M0S E 343.13 FT N 21D12M52S E 324.56 FT N 1D38M32S W 211.92 FT N 24D40M37S E 95.14 FT S 79D16M37S E 281.20 FT TO E LINE OF SAID SW ¼ S ALONG E LINE 885.81 FT TO BEG, SECTION 27, TOWNSHIP 114, RANGE 19

DECLARATION

WHEREAS, Section 6.19 of Empire Zoning Ordinance Number 400, or successor ordinances requires that the Grantor Site area of 118.29 acres be restricted to two remaining residential building rights.

NOW, THEREFORE, the Declarant(s) make(s) the following Declaration of Restriction. The restrictions described below shall apply to the Grantor Site and shall run with the land and shall be binding on all parties and all persons claiming under them:

1. That use of the property described herein as the Grantor Site, or any part thereof, shall be used as currently used, with two remaining residential building rights.

2. That use of the property, described herein as the Grantor Site, for the determination of additional residential dwelling site density under the provisions of Empire Zoning Ordinance Number 400; or successor ordinances, shall be determined by the Empire Planning Commission.

3. This Declaration of Restriction shall remain in effect until the Empire Zoning Ordinance Number 400, or successor ordinances, is not amended to allow additional residential building entitlements on the Grantor Site.

4. This Declaration of Restriction runs in favor of the City of Empire and shall be enforced by the City of Empire.

5. Any costs incurred by the City of Empire in enforcing the terms of this Declaration against the Grantor, including court costs and attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Agreement and Easement, shall be borne by the Grantor.

6. This declaration is not applicable until it is recorded as a document by the Dakota County Recorders Office, and said document is received by the City of Empire.

IN WITNESS WHEREOF, the Declarant(s) has/have executed this Declaration of Restriction for Development Rights on the date and year above written.

DECLARANT(S)

Phyllis Betzold (Phyllis J Tste Betzold)

_____

Signature

State of Minnesota
County of Dakota } ss

The foregoing instrument was acknowledged before me this _____day of_____, 20__ by (name of declarant being acknowledged typed here).

Notarial Stamp or Seal

_____

Signature of Notary

(Bruce M & Paula J Betzold, a married couple)

_____
Signature

State of Minnesota
County of Dakota } ss

The foregoing instrument was acknowledged before me this _____day of _____, 20__ by (name of 2nd declarant being acknowledged typed here).

Notarial Stamp or Seal

_____
Signature of Notary

_____
Signature

State of Minnesota
County of Dakota } ss

The foregoing instrument was acknowledged before me this _____day of _____, 20__ by (name of 2nd declarant being acknowledged typed here).

Notarial Stamp or Seal

_____
Signature of Notary

This instrument drafted by:

Mike Couri
Couri & Ruppe Law Office
P.O. Box 369
St. Michael, MN 55376
763-497-1930

6.13 Residential Building Rights Transfer

Within the AG Agricultural Preservation District the transfer of non-farm residential building rights is allowed from one parcel to another, subject to the provisions of this Section.

A. Residential Building Right

A "residential building right" as described in this Section is the entitlement of a non-farm residential dwelling unit within the AG District. Non-farm residential dwellings are permitted at a maximum density of one dwelling per quarter-quarter section not containing another farm or non-farm dwelling unit. The Planning Commission and City Council shall verify that any party wishing to transfer a residential building right has such an entitlement or building eligibility. In addition to the maximum density limitations, building eligibility is determined by the suitability of the land for residential building purposes. If an entire quarter-quarter section is encumbered by surface water, wetlands, floodplain, easements or other legal encumbrances, or if a potential residential building site is surrounded by and inaccessible due to such encumbrances, there shall be no residential building entitlement or eligibility.

B. Residential Building Rights Transfer

Any party wishing to convey a residential building right to another party may do so as a private transaction subject to the conditions and requirements of this Section.

C. Eligible Building Rights Transfer

Building rights may be transferred from one parcel to another within the AG District subject to the following conditions and requirements:

1. The Planning Commission and City Council must verify the eligibility of the residential building right to be transferred.
2. The residential building right must be transferred to a legal lot of record, with public street access and suitability for an Individual Sewage Treatment System (ISTS), or to a parcel pending subdivision approval by the City. A residential building right must be assigned to a specific parcel of land approved by the City. All other Zoning Ordinance and Subdivision Ordinance provisions apply to the proposed building site.
3. A residential building right may only be transferred from eligible AG District quarter-quarter parcels where the principal use is agriculture.
4. Residential building rights may not be transferred from property located within the Metropolitan Urban Service Area, property subject to an Orderly Annexation Agreement, property on which a mining permit has been issued, property used for commercial recreation purposes, property used for education or religious purposes, or property used for public purposes.
5. Residential building rights may only be transferred to and used within the Southeast Quarter (SE ¼) of Section 1, East Half (E ½) of Section 12, East Half (E ½) of Section 28, Sections 23-27, and Sections 33-36, Township 114, Range 19.
6. The applicant for a building rights transfer shall be required to furnish a title opinion by an attorney or title insurance company on the status of the title and encumbrances of the property subject to a transfer of building rights for review and approval by the City attorney.

7. A Building Rights Transfer Agreement must be executed by the applicant and recorded against the property from which the transfer of a residential building right is allowed.
8. A maximum of two residential building rights may be transferred at any one time from one party to another.

D. Recording of the Residential Building Rights Transfer and Conservation Easement Agreement

A Residential Building Rights Transfer and Conservation Easement Agreement prepared by the City must be executed by the applicant and submitted to the City for review and recording. The Residential Building Rights Transfer and Conservation Easement Agreement will legally identify the property involved in the transfer and note the elimination or loss of residential building rights on said property. The Agreement will also identify the property on which the building right will be assigned.

E. Fee and Reimbursement of Out-Of-Pocket Expenses

The applicant for a transfer of building rights shall submit a letter of request for a building rights transfer with a non-refundable fee of $250.00. The applicant shall also be obligated to reimburse the City for all out-of-pocket expenses incurred in the review and approval of the residential building rights transfer, including but not limited to planning fees, legal fees, and recording fees. The City may require a cash escrow up to $2000.00 to guarantee the payment of such costs.

Property Card	Parcel ID Number 12-03300-01-020

Owner Information

Fee Owner

PHYLLIS J TSTE BETZOLD

Mailing Address

2356 210TH ST W

FARMINGTON MN 55024

Property Address

Address

Municipality

EMPIRE

Parcel Information

Sale Date		Total Acres	118.29
Sale Value	$0.00	R/W Acres	1.85
Uses	AG	Water Acres	
	AG	Plat	SECTION 33 TWN 114 RANGE 19
		Lot and Block	33 114 19
		Tax Description	NE 1/4 EX BEG NE COR W ON N LINE 220.00 FT S 1104.00 FT N 87D46M15S W 787.02 FT S 01D41M32S W 977.33 FT S 02D06M48S E 566.32 FT TO S LINE NE 1/4 E ON S LINE 1009.16 FT TO SE COR NE 1/4 N ON E LINE 2618.19 FT TO BEG

2024 Building Characteristics (payable 2025)*

Building Type	Year Built	0	Bedrooms		
Building Style	Foundation Sq Ft		Bathrooms		
Frame	Above Grade Sq Ft		Garage Sq Ft		
Multiple Buildings	Finished Sq Ft		Other Garage		

Miscellaneous Information

School District	Watershed District	Homestead	Green Acres	Ag Preserve	Open Space
192	VERMILLION RIVER	NON HOMESTEAD			

Assessor Valuation

	Taxable	Estimated
2024 Land Values (payable 2025)	$1,015,800.00	$1,015,800.00
2024 Building Values (payable 2025)*	$0.00	$0.00
2024 Total Values (payable 2025)*	$1,015,800.00	$1,015,800.00
2023 Total Values (payable 2024)*	$980,800.00	$980,800.00

Property Tax Information

Net Tax (payable 2024)	Special Assessments (2024)	Total Tax & Assessments (2024)
$6,182.00	$0.00	$6,182.00

* Manufactured Homes Payable the Same Year as Assessment.

Property Card	Parcel ID Number 12-03300-01-020

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.

Property Card	Parcel ID Number 12-02700-52-012

Owner Information

Fee Owner

BRUCE M & PAULA J BETZOLD

Mailing Address

22248 CAMBRIAN WAY

FARMINGTON MN 55024

Property Address

Address

Municipality

EMPIRE

Parcel Information

Sale Date		Total Acres	32.06
Sale Value	$0.00	R/W Acres	0.64
Uses	AG-GREEN ACRES AG-GREEN ACRES	Water Acres	
		Plat	SECTION 27 TWN 114 RANGE 19
		Lot and Block	27 114 19
		Tax Description	SE ¼ OF SW ¼ EX BEG SE COR W ALONG S LINE 477.22 FT N 8D43M0S E 343.13 FT N 21D12M52S E 324.56 FT N 1D38M32S W 211.92 FT N 24D40M37S E 95.14 FT S 79D16M37S E 281.20 FT TO E LINE OF SAID SW ¼ S ALONG E LINE 885.81 FT TO BEG

2024 Building Characteristics (payable 2025)*

Building Type	Year Built	0	Bedrooms		
Building Style	Foundation Sq Ft		Bathrooms		
Frame	Above Grade Sq Ft		Garage Sq Ft		
Multiple Buildings	Finished Sq Ft		Other Garage		

Miscellaneous Information

School District	Watershed District	Homestead	Green Acres	Ag Preserve	Open Space
192	VERMILLION RIVER	NON HOMESTEAD	Y		

Assessor Valuation

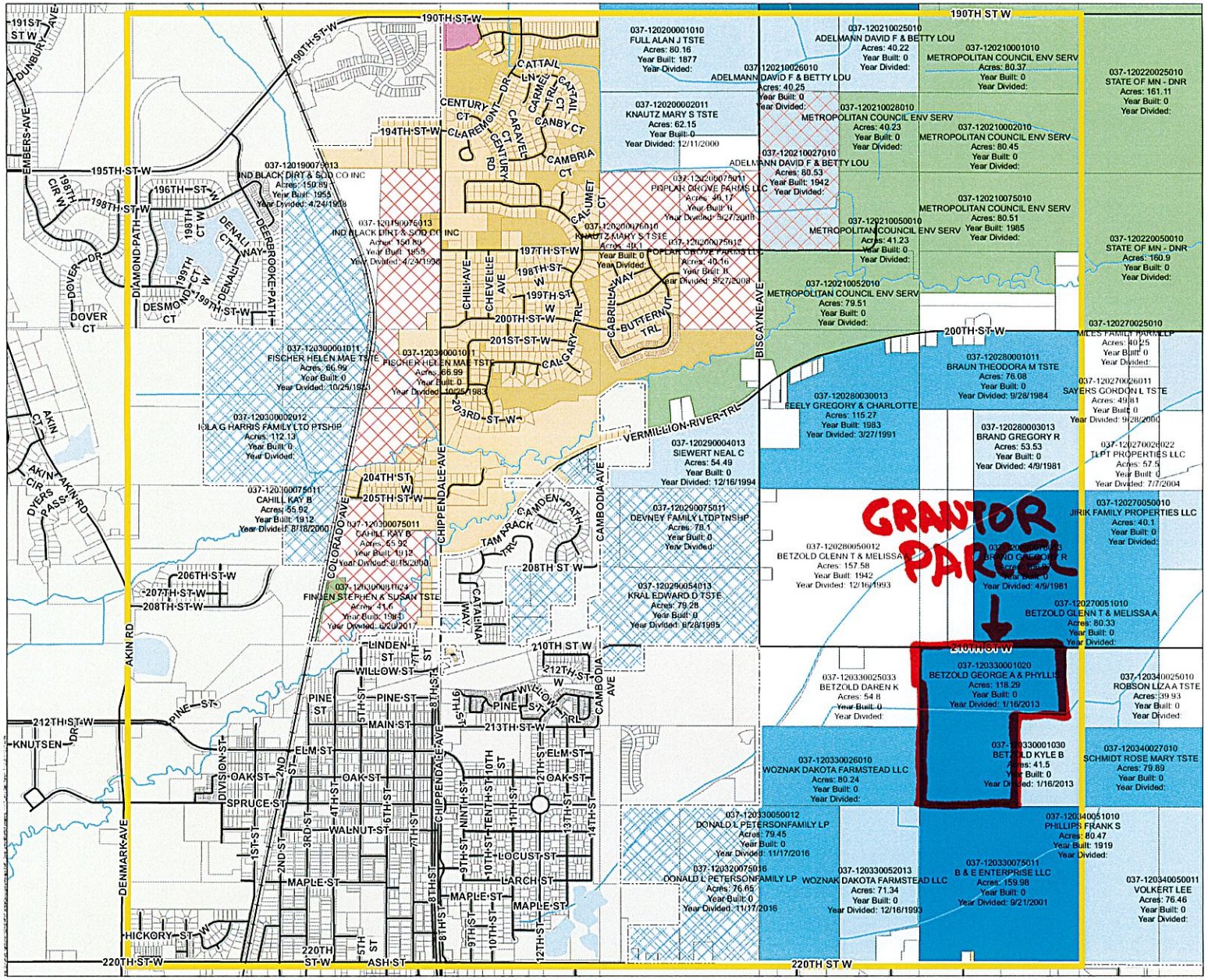
	Taxable	Estimated
2024 Land Values (payable 2025)	$189,600.00	$215,100.00
2024 Building Values (payable 2025)*	$0.00	$0.00
2024 Total Values (payable 2025)*	$189,600.00	$215,100.00
2023 Total Values (payable 2024)*	$202,400.00	$227,400.00

Property Tax Information

Net Tax (payable 2024)	Special Assessments (2024)	Total Tax & Assessments (2024)
$1,276.00	$0.00	$1,276.00

* Manufactured Homes Payable the Same Year as Assessment.

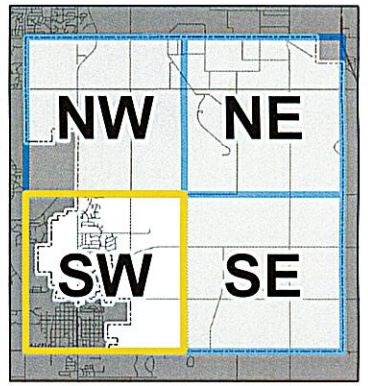
Disclaimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey, or for zoning verification.



EMPIRE TOWNSHIP

Development Rights
SW Quadrant

LOCATION MAP



Legend

- Selected Quadrant
- Township Limits
- Farmington Orderly Annexation Area
- 2040 MUSA
- Publicly Owned Land
- Water Features

Parcels: Development Rights Remaining

- 0
- 1
- 2
- 3
- 4

Zoning

- Neighborhood Commercial/ Highway Commercial/ Light Industrial
- Mixed Residential

0 0.25 0.5 Miles

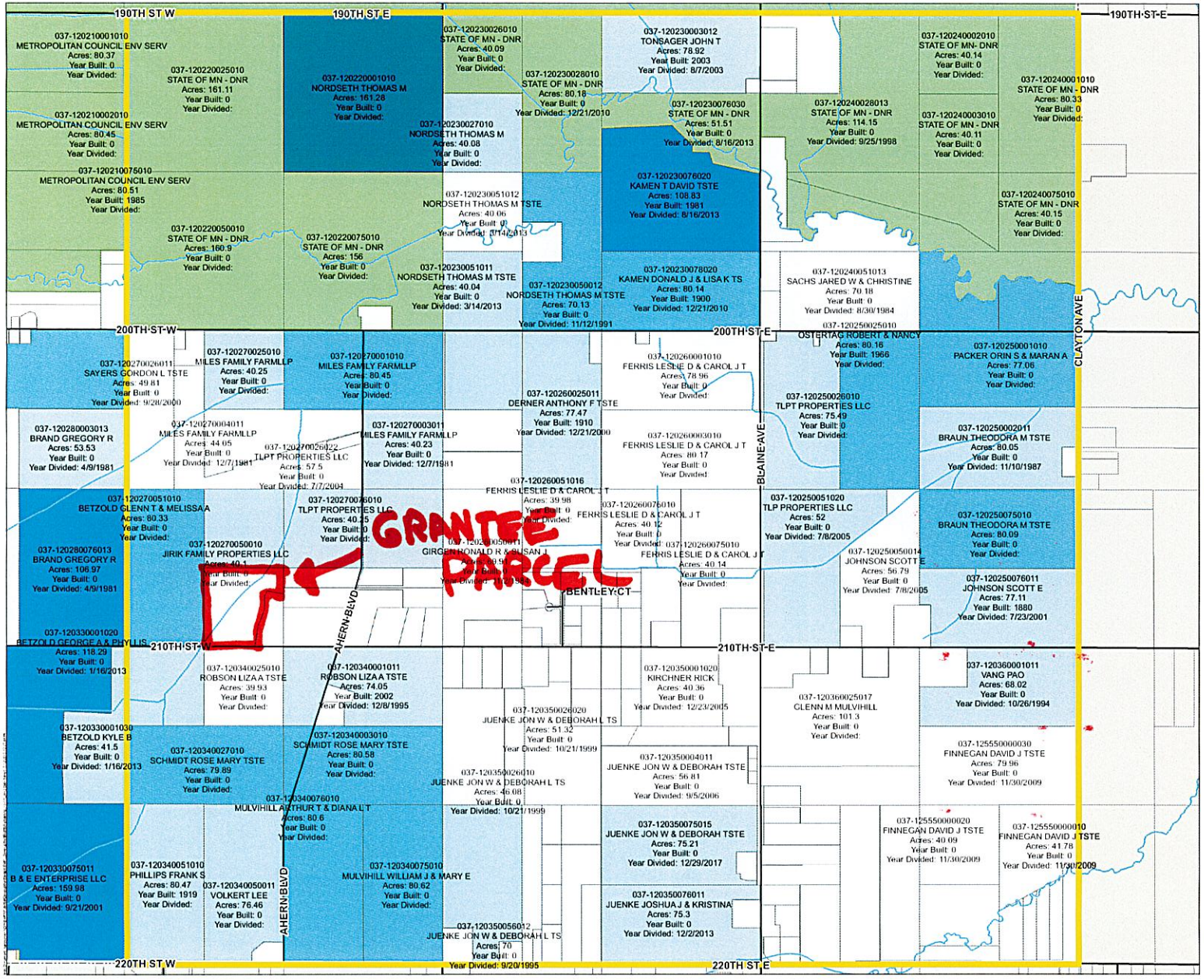
Source: Dakota County, Empire Township, MnGeo

Text on the map contains parcel number, name, number of acres, year the house was built, and the year the parcel was divided or reassembled. Division data most reliable for those parcels altered after 1984.

Disclaimer: The number of development rights remaining are not official. Specific inquires should require a formal review.

BOLTON & MENK

July 2019

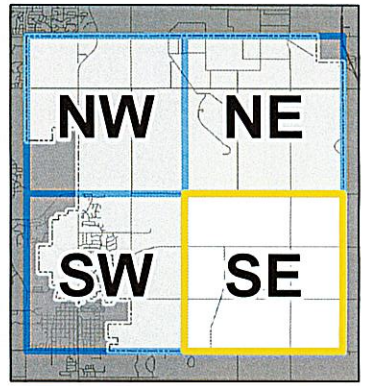


Empire Township

EMPIRE TOWNSHIP

Development Rights SE Quadrant

LOCATION MAP



Legend

- Selected Quadrant
- Township Limits
- Farmington Orderly Annexation Area
- 2040 MUSA
- Publicly Owned Land
- Water Features

Parcels: Development Rights Remaining

- 0
- 1
- 2
- 3
- 4

Zoning

- Neighborhood Commercial/ Highway Commercial/ Light Industrial
- Mixed Residential

0 0.25 0.5 Miles

Source: Dakota County, Empire Township, MnGeo

Text on the map contains parcel number, name, number of acres, year the house was built, and the year the parcel was divided or reassembled. Division data most reliable for those parcels altered after 1984.

Disclaimer: The number of development rights remaining are not official. Specific inquires should require a formal review.

BOLTON & MENK

July 2019

CITY OF EMPIRE

9/24/2024

Dakota County Recorder's Office
1590 Highway 55
Hastings, MN 55024

To: Dakota County Recorder's Office
Re: Approved Agreement to Transfer Residential Building Right and Grant of Conservation Easement

Dear Dakota County Recorder's Office,

Please find the enclosed, original document for the Declaration of Restriction for Development Rights that the City of Empire would like to have recorded, along with a check for the recording fee. The agreement was approved by the Empire City Council at their meeting on 9/24/2024.

The agreement transfers one residential building right on PID #12-03300-01-020 to PID #12-02700-52-012.

Please mail the recorded copy to the City of Empire at 3385 197th Street, Farmington, MN 55024.

Sincerely,

City of Empire

Trent Larson
Mayor

Charles Seipel-Teng
Clerk-Administrator

Enclosures:

Declaration of Restriction for Development Rights
Legal Descriptions for Properties Included in the Transfer

MEMORANDUM

Date:	September 24, 2024
To:	Empire City Council
From:	Charles Seipel-Teng, Clerk-Administrator
RE:	2. Consider Approving Continuation of the 24-Hour Operation for Holcim's Stonex-Nielsen Mine

The IUP for the Holcim Stonex-Nielsen mine, located on the east side of Biscayne Ave. was issued in April, 2023.
Section 5, Item L of the IUP contains provisions for a 24-Hour, six day per week operation, provided that this operation begin with a 50 day probationary period that started upon the commencement of operations at the mine. The 50 day period has now passed and the City has not received any concerns about operations at the mine. Staff is recommending that Council consider a motion to allow for the continuation of the 24-Hour operations at the mine.

Attachment(s): *Stonex Nielsen IUP 2023.pdf*
Stonex-Nielsen.pdf

CITY OF EMPIRE
DAKOTA COUNTY

MINERAL EXTRACTION
INTERIM USE PERMIT

HOLCIM – MWR, INC.
2023 STONEX NIELSEN PROPERTY
NORTH ½, SECTION 16. TOWNSHIP 114N, RANGE 19W

1. Application. The City of Empire, a Minnesota municipal corporation (hereafter the "City") has received an application for a Mineral Extraction Interim Use Permit (hereafter "IUP") from Holcim – MWR, Inc., a Minnesota corporation (hereafter "Holcim"). The "Holcim Mineral Extraction Permit Interim Use Permit," application, received March 9, 2023, with additional information received March 23, 2023 (hereafter "Permit Application,"), is attached to this IUP by reference as **Plan A**.

2. Property. The IUP is for property generally described as the North ½ of Section 16, Township 114, Range 19 West, located on the east side of Biscayne Avenue, one mile south of 170th Street and ½ mile north of 190th Street, and identified by Dakota County Parcel ID 12-01600-01-020 and 12-01600-02-010, (hereafter the "Property"). The Property includes approximately 312 acres to be mined and reclaimed under this IUP.

3. Permit. Subject to the terms and conditions set forth herein, the City approves a five-year IUP to Holcim to operate a mineral extraction facility on the Property.

4. Findings of Fact.

   A. The proposed use is temporary in nature. The extraction permit will be used until the material is mined out. The applicant anticipates this will occur within five years.

   B. The operation of the mineral extraction will be done according to applicable ordinances and will not negatively impact the public health, safety or welfare.

   C. This property is identified for Agricultural uses and is located within the Mineral Extraction Overlay District on the Comprehensive Plan. The ME district permits mineral extraction with an IUP.

   D. The proposed uses will be served by individual septic treatment systems and private wells. This use will not impact fire or police services.

   E. With screening berms and required setbacks, use should be adequately screened from existing residences and the right-of-way.

   F. The proposed use can be adequately served by the existing transportation system or mitigated effectively by the applicant. The use of the conveyor will limit truck traffic on Biscayne Avenue. A condition includes the requirement for dust control and other measures to mitigate impact of the use on the road.

   G. As proposed, the use is consistent with the standards of the Zoning Ordinance.

   H. The potential for any impacts on adjacent properties or the environment can be fully mitigated by conditions of the permit. Conditions of approval include requirements for

meeting all MN PCA standards and obtaining all other relevant permits. These conditions will effectively mitigate any potential negative impacts.

I. Activities within proposed use will not create a public nuisance.

J. The applicant agrees to the conditions the City deems appropriate for issuance of the interim use permit.

5. Conditions. The IUP is issued subject to the following conditions:

A. The IUP is conditioned upon the review and approval of wetland delineations, impacts and mitigation, if any, and requirements of the Vermillion River Watershed Joint Powers Organization, if any. The final wetland determination decision letter must be provided to Empire prior to any excavation on the site.

B. Prior to construction of this system, the applicant must submit plans for the conveyor system, including how the potential impacts noted above will be addressed. The applicant will also be required to enter into an agreement with the city on the proposed location and construction of the culvert under Biscayne Avenue.

C. The comments provided by the City Engineer in the memorandum dated March 30, 2023, and incorporated as part of Plan A, must be addressed prior to issuance of permits.

D. Holcim shall operate the site in full compliance with Plan A submitted by Holcim as part of its Permit Application, except as amended in this IUP, and all federal, state, and local laws, rules, ordinances, and regulations.

E. Holcim shall operate the site consistent with Ordinance No. 450 Empire Mineral Extraction Ordinance, as amended, including but not limited to Ordinance No. 450-A, Ordinance No. 450-B, Ordinance No. 450-C, and Ordinance No. 450-D; and Empire Zoning Ordinance No. 410, as amended; and Empire Stormwater Management Ordinance No. 360, as amended; and Empire Wetland Management Ordinance No. 475, as amended (hereafter "City Ordinances").

F. The IUP is contingent upon valid Minnesota Pollution Control Agency NPDES permits.

G. Holcim shall operate this site consistent with all future federal and state, laws, rules and ordinances, pertaining specifically to environmental conditions, including but not limited to air quality, surface water quality, groundwater quality, noise, and particulate matter.

H. Holcim shall allow access to the site by the City's representatives, or other local, state or federal officials and agents, upon reasonable notice and in the company of a competent site representative, to inspect permitted facilities and site conditions, at intervals chosen by the City.

I. Mineral extraction processing on the site shall be consistent with Plan A, and include excavation and stockpiling of topsoil, construction of screening berms on the perimeter of the site, mineral extraction, processing, aggregate stockpiling, material hauling, recycled asphalt and concrete stockpiling, and asphalt production. Detailed plan review and approval by the City, applicable building permits, and applicable driveway or right-of-way permits, are required before the commencement of any of the following activities:

1) Conveyor location

2) Crushing equipment location

3) Stockpile locations

4) Wash plant location

5) Biscayne Avenue facility access

6) Other buildings and structures

7) Wells, groundwater appropriations, and Subsurface Sewage Treatment Systems (SSTS)

J. The screening berms illustrated in Plan A shall be properly maintained during the term of the IUP. The City reserves the right to require additional screen berming as appropriate and reasonable during site operations. Holcim will place reflective signs stating "Danger-Mine Site-No Trespassing" every 50 feet along the north and east boundaries.

K. Dust generated during excavation and processing shall be minimized by watering and/or chemical treatment. Holcim shall control dust leaving the Property as necessary and as requested by the City. Dust generated on City roads used by Holcim shall be mitigated as necessary and as requested by the City. Mud and dust on public roads caused by Holcim shall be promptly cleaned by Holcim.

L. Holcim will be allowed hours of operation of 24 hours per day, six days per week, during a probationary period consisting of the first 50 days of the operation of the facility. Holcim must notify the City when operations begin. Prior to the completion of the probationary period, the City will review the hours of operation and make a final determination about the permitted hours of operation. Twenty-four hour operations shall be subject to the following:

1) Routine aggregate extraction and crushing will take place on the floor of the mine, below the berms and the mine face itself.

2) All equipment and trucks required to back up shall be equipped with the "white noise" backup alarms. If state or federal regulations change or eliminate the use of white noise alarms, the City will review and may reduce the longer hours provision of the Mineral Extraction Ordinance and in this IUP.

3) Night-time lighting will be downcast or shrouded to the extent practicable to minimize off-site glare and illumination.

4) Holcim will establish and maintain a mailing list of residential property owners within one-half mile of the mining property. This list will include City officials.

5) All neighbors are instructed to call Moe Connell, Plant Manager, at (612) 508-0519 or Patty Bestler, Regional Manager, Environmental & Land Services, at (612) 214-8577, with any complaints or concerns. Callers should provide as much information as possible, including details such as: the time of day, description of concerns, description of sounds and sights, frequency of activity, license plate number, color of vehicle, etc.

6) Holcim will respond to all calls within 48 hours.

7) Holcim will record all neighbor contacts and calls and send copies to the City. Any mitigation efforts by Holcim will also be recorded and sent to the City. Holcim shall furnish the City with records of complaints and resolutions within thirty (30) days of receipt of the complaint.

M. No mineral extraction operations shall occur on Sundays or federal holidays, unless specifically authorized by the City with advance notice.

N. Trucking routes in Empire shall be limited to Biscayne Avenue, 170th Street, State Highways, and County State Aid Highways, except for product deliveries to properties on other roadways in Empire.

O. The site shall be reclaimed according to City Ordinances and Plan A prior to the end of the Permit term, unless the IUP is amended by the City, the term of the IUP is extended by the City, or a new IUP is approved by the City. The maximum area of excavation, extraction, processing, stockpiling, or other graded and un-reclaimed acreage shall not exceed 312 acres. Final reclamation shall include sand backfilling to meet ordinary compaction, loamy material over the compacted sand, and a minimum of 4" of topsoil over the loamy material. Final reclamation shall also include the removal of the conveyor and of the culvert under Biscayne Avenue and from the O'Connell property.

   1) An updated reclamation plan will be required at the completion of mining operations based on actual grades depending on the actual mineral extracted. As part of this updated reclamation plan, the grades of the slopes near the property boundaries shall be included to show how the proposed grades will match/tie into the existing surrounding grades.

P. Existing domestic water wells and SSTS facilities located on the site, if any, shall be removed or closed according to requirements of Dakota County and the City when excavation or extraction occurs within 50 feet of the well or ISTS or before the end of the IUP term, whichever is sooner.

Q. Holcim shall notify the City one week prior to "sand sales" which involve three or more days of hauling. The purpose of the notification is to make the City aware of additional traffic and allow the City to address any road conditions, including grading, if needed.

R. Prior to beginning work in Phase 2, the applicant shall meet with the City and Dakota County staff and the IUP shall be reviewed to mitigate impacts to the County park.

6. Reimbursement of Costs. Holcim shall reimburse the City for all out of pocket expenses incurred in the IUP application review and approval, facility inspections and enforcement of this IUP and local ordinances, including planning, engineering, and attorney's fees. Holcim agrees to pay all reasonable permit or license fees established by the City and as adjusted from time to time.

7. Financial Security. To guarantee compliance with the terms of this permit and final site restoration, Holcim must furnish the City the following:

A. A minimum $320,000.00 permit bond in a form and with a surety satisfactory to the City shall be furnished to the City on or before June 1, 2023, or the IUP shall be invalid. At the annual review, if it is determined that the disturbed and un-reclaimed acreage exceeds forty (80) acres, the amount of the bond shall be increased in an amount equal to $4000.00 times the total disturbed and un-reclaimed acreage.

B. A bond or letter of credit to guarantee the removal of the Biscayne Avenue culvert shall be furnished to the City prior to construction commencing, or the IUP shall be invalid.

C. The term of the bond shall be a minimum of one (1) year, automatically renewable for a minimum term of one (1) year. Any termination notice for the surety must be in writing to the City at least thirty (30) days prior to expiration. Any termination notice received prior to the expiration of the IUP shall cause the expiration of the IUP.

8. Indemnification. Holcim shall defend and indemnify and hold harmless the City and its agents, officers, employees, and its attorney, and its engineer, and its planner against any and all claims, damages, losses, and expenses, including attorney fees, arising out of or resulting from the issuance of the IUP or the enforcement thereof.

9. Permit Term. The term of the IUP shall be from June 1, 2023 to March 31, 2029, subject to annual review and renewal as required in Ordinance No. 450, as amended.

10. Rescission or Termination of Permit. The City may rescind this IUP if, after thirty (30) days following written notice of violation, Holcim has not corrected the violation and then following a public hearing wherein the City finds a violation of the terms of this IUP. This IUP will also terminate if Holcim does not commence operations under this IUP within six (6) months, or if any provision of City Ordinances causes a termination of the IUP.

11. Amendment of Permit. New or revised facility operations, which are consistent with City ordinances, may be considered through established review procedures and authorized by the City by amending this IUP.

12. Remedies. Violation of the terms of this IUP shall be subject to all remedies and prosecution

Approved by the City of Empire City Council this 25th day of April, 2023.

CITY OF EMPIRE

By: _____
Charles Seipel-Teng, Clerk-Administrator

By: _____
Trent Larson, Mayor

STATE OF MINNESOTA)
) SS
COUNTY OF DAKOTA)

This agreement was acknowledged before me this 26th day of April, 2023, by Trent Larson and Charles Seipel-Teng on behalf of the City of Empire, a Minnesota municipal corporation, and pursuant to the authority granted by its City Council.

MELANIE DAWN MCCRACKEN
NOTARY PUBLIC
MINNESOTA
My Commission Exp. Jan 31, 2027

Melanie Dawn McCracken
Notary Public

The undersigned user agrees to the conditions set forth in the permit.

HOLCIM – MWR, INC.

By: Tom Schmit

Name: Tom Schmit Title: General Manager

STATE OF MINNESOTA)
) SS
COUNTY OF DAKOTA)

This agreement was executed before me this 8th day of MAY, 2023, by Tom Schmit on behalf of Holcim – MWR, Inc.

CHARLES ALBERT SEIPEL-TENG
NOTARY PUBLIC
MINNESOTA
My Commission Exp. Jan 31, 2027

Notary Public

This permit agreement drafted by:
The City of Empire
3385-197th Street West
Farmington, MN 55024
(651) 463-4494

PLAN A



MINERAL EXTRACTION INTERIM USE PERMIT APPLICATION

March 8, 2023

PLAN A

Holcim – MWR, Inc.
City of Empire, Dakota County, Minnesota

Holcim – MWR, Inc. seeks to obtain a Mineral Extraction – Interim Use Permit to expand mining operations onto two parcels of property located in Section 16, Township 114N, Range 19W within the City of Empire, Dakota County Minnesota, Parcel 12-01600-01-020 and Parcel 12-01600-02-010 (the "subject property").

The subject property is within the study area of the Final Environmental Impact Statement for Sand & Gravel Mining and Accessory Uses in the City of Empire ("EIS"), which evaluated the potential environmental impacts associated with mining and accessory uses in 2005.

PROPERTY LOCATION AND DESCRIPTION

The subject property is located south of 170th Street on Biscayne Avenue and consists of approximately three hundred twelve (312) acres, legally described as follows:

Parcel ID 12-01600-01-020: The North Half of the North Half of Section 16, Township 114N, Range 19W, City of Empire, Dakota County, Minnesota, excepting that part thereof described as follows: Commencing at the northwest corner of said North Half of the North Half; thence South 00 degrees 17 minutes 21 seconds West, assumed bearing, along the west line of said North Half of the North Half, a distance of 595.00 feet to the point of beginning of the land to be described; thence South 89 degrees 42 minutes 39 seconds East, a distance of 661.52 feet; thence South 00 degrees 17 minutes 21 seconds West, a distance of 725.80 feet to the south line of said North Half of the North Half; thence North 89 degrees 33 minutes 55 seconds West, along said south line, a distance of 661.52 feet to the southwest corner of said North Half of the North Half; thence North 00 degrees 17 minutes 21 seconds East, along said west line a distance of 724.12 feet to the point of beginning.

Parcel ID: 12-01600-02-010: The South Half of the North Half of Section 16, Township 114N, Range 19W, City of Empire, Dakota County, Minnesota.

Please refer to **Figure 1 – Project Location**, for a depiction of the subject property.

DESCRIPTION OF PROPOSED OPERATIONS

Holcim seeks to secure an Interim Use Permit to commence mining the reserves on the proposed subject property in the spring of 2024. Prior to the commencement of mining on the subject property, pre-mining activities will take place to prepare the property for mining. These pre-mining activities include the installation of an engineered tunnel under Biscayne Avenue and establishing conveyor systems and internal roads on the O'Connor and Brand properties.

Additionally, two driveway access points will be put in place on the subject property, as well as the installation of conveyors, electrical transformers, and staging of equipment and supplies. These pre-mining activities will take place during the timeframe of late 2023 into the spring of 2024. Initial mining activities in the spring of 2024 will involve stripping of topsoil and overburden and the construction of screening berms prior to the mineral extraction process.

Mining will be conducted in a manner similar to the practices which Holcim is currently conducting within the City of Empire. Topsoil and overburden stripping will be accomplished using several pieces of earth moving equipment including but not limited to bulldozers, scrapers, backhoes and haul trucks. The stripped topsoil and overburden will be used to construct screening berms around the perimeter of the subject property. The "toe" of the perimeter berm adjacent to Biscayne Avenue will be located at the easterly edge of the Metropolitan Council's Easement Area which lies east of Biscayne Avenue. No extraction activity will occur within 100 feet of any residence, nor will any screens, crushers or other processing equipment be located within 250 feet of any residence, without screening berms being put in place.

The equipment utilized for extraction will include several pieces of equipment, including but not limited to: front-end loaders, dozers, scrapers, backhoes, skid steers, compactors, crushers, screens, pumps, aerial lifts, tele-handlers, service trucks, pick-up trucks and similar types of machinery.

The Company anticipates that excavation of shallow underwater reserves (from a perched water table on the underlying clay) will take place in several areas on the subject property. This underwater mining will be accomplished with the use of a backhoe and these areas will be backfilled with sand according to the reclamation plan. Final grades will generally be above the perched water table, however, pond areas and possible wetland areas may be created where the excavated water depths would be sufficient.

The extracted material will be transported via an overland conveyor system with engineered tunnels under Biscayne Avenue and 170th Street to the Company's Empire Plant located in Section 5 in the City of Empire (Hynes Property). Holcim will work closely with the City on the construction and placement of the proposed tunnel under Biscayne Avenue. In order to meet current market demands, the pit extraction process (which includes mining equipment and the overland conveyor system) will operate 24 hours a day, 6 days a week. At the processing plant, the extracted material will be fed through a series of crushers, screens, conveyors, wash decks and classifiers to produce commercial grade construction aggregates. The finished aggregate products will be stockpiled at the Company's Empire Plant and sold to contractors/customers to be used in a variety of construction applications including road base, ready mix concrete, concrete products and asphalt.

Refer to **Figure 2 – Mine Phasing Plan** which depicts the sequencing of mineral extraction, conveyor alignment, the existing tunnel under 170th Street, the proposed tunnel under Biscayne

Avenue, site access points from Biscayne Avenue, perimeter screening berms, as well as a trailer which will be utilized as an employee breakroom and vehicle parking. The proposed employee breakroom will be approximately 12'x 25'x 14'and will be located near the vehicle parking area. The size of the breakroom may be subject to change, depending upon the availability of securing a portable trailer for the breakroom.

The volume of truck traffic and the distribution of aggregate truck traffic will not change significantly from the Company's current operations. With the exception of importing clean fill material into the subject property for use in the reclamation process, in conjunction with the load-out of fill sand from the property, the majority of Holcim's product deliveries will continue to be directed onto Biscayne Avenue from the Company's Empire Plant site and will then proceed north to 160th Street. In no event shall the amount of backhauling of clean fill/transport of fill sand from the subject property exceed 300,000 cubic yards during the course of any given year. The following estimates are for average daily and peak daily aggregate trips originating from the Company's existing Plant:

	Average Daily	Peak Daily
Aggregate Trucks	250	600

Reclamation will be accomplished in annual increments by grading the excess sand and overburden to the proposed minimum reclamation grades. Excess sand may raise final grades in some areas of the property. Ordinary compaction of reclaimed areas will be performed at the discretion of Holcim.

SUPPORTING DOCUMENTATION AS REQUIRED BY SECTION 5.02 of ORDINANCE NO. 450.

Every application for a mineral extraction permit shall include submission of supporting documentation which shall include, but may not be limited to the following:

A. **A description of existing land uses on the subject property and all properties within one-half (1/2) mile.**

The subject property is located within the sand and gravel mining overlay district studied in the EIS. The existing land use is agricultural. The surrounding properties consist primarily of agricultural, rural residential and mineral extraction. Approximately 10.6 acres of Parcel ID 12-00800-75-013 is leased to MSC-Empire01, LLC for the operation of a solar energy project.

Refer to **Figure 3 – Existing Land Uses**.

B. **A description of land use designations in the Comprehensive Plan and zoning classifications of the subject property and all properties within one-half (1/2) mile.**

The Comprehensive Plan for the City of Empire designates the subject property and the surrounding properties as "agricultural" with an "extractive overlay." The Comprehensive Plan anticipates that mining operations within the extractive overlay area will include aggregate processing, ready mix concrete plants, asphalt plants and other aggregate accessory uses.

The zoning classifications for the subject property and surrounding areas are "Agricultural Preservation" and "Mineral Extraction." Refer **Figure 3(a) – City of Empire Zoning Map**.

C. A description of the soil, vegetation, mineral content and topography of the subject property. A minimum of three (3) soil boring logs representative of the site and a description of the subsurface materials on the subject property must be submitted.

The surface soils on the subject property are primarily Waukegan silt loams and sandy loams (411A and 411B), ranging from 0 to 6 percent slopes. They are deep, well drained soils on outwash plains and stream terraces. They are moderately permeable in the upper part and rapidly permeable in the lower part. These soils formed in a silty mantle over the underlying calcareous sand and gravel deposits. Slopes range from 0 to 12 percent. The vegetation consists of cropland, primarily soy beans or corn.

The subsurface materials are sand and gravel, ranging from 10 to 60 feet in depth. **Attachment 1** identifies the location of drill holes and includes information on three representative drill logs. Refer to the Final Environmental Impact Statement, Sand & Gravel Mining and Accessory Uses completed in 2006 for additional details.

D. A general description of surface waters, existing drainage patterns and groundwater conditions within one-half mile of the subject property.

On October 25, 2022, Westwood Professionals delineated two wetlands totaling 26.1 acres within the proposed mining area. Wetland WB-01 (22. acres) is predominantly a Type 3, PEMB1C, shallow marsh surrounded by a fresh wet meadow fringe. Wetland WB-02 (3.4 acres) is a Type 2, PEMB, fresh wet meadow.

Additionally, one watercourse, WC-01 (0.17 acres, 723 linear feet) which is a perennial stream that flows through the northeast portion of wetland basin WB-01 and is a tributary to the Vermilion River. This feature is identified on the Vermillion River Joint Powers Organization Interactive Map as a Tributary Connector.

The wetlands and watercourse will not be disturbed at any time during the mining operations. Diversion berms will be utilized to prevent sediments and runoff from leaving the property.

Holcim has requested that Dakota County SWCD, as the WCA LGU, and the USACE review and process the Wetland Delineation Report and Joint Application Form prepared by Westwood Professionals.

Refer to the Final Environmental Impact Statement, Sand & Gravel Mining and Accessory Uses, completed in 2006 for greater detail.

E. A general description of any wells or private sewer systems of record, pipelines, power lines and other utilities or appurtenances on the subject property and adjacent properties.

There are no known wells or septic systems located on the subject property. A search of the Minnesota Well Index shows one well located at the residence located at 18122 Biscayne Avenue (Jonathon Nielsen) on the east side of Biscayne Avenue, and two wells located on the west side: 18021 Biscayne Avenue (Richard O'Connor) and 18435 Biscayne Avenue (Joe Lolinger). All of the private residences have septic systems as well. Power lines run along Biscayne Avenue and the Metropolitan Council has a sewer main buried within in an easement along the east side of Biscayne Avenue.

F. A general description of the depth, quantity and intended uses of the mineral deposits on the subject property.

The sand and gravel deposit on the subject property ranges in depth from 10 to 60 feet deep. An estimated nine (9) million tons of material will be removed from the subject property. The deposit is associated with the Superior Lobe which is high quality with little shale or deleterious substances. The extracted material will be utilized in a variety of construction applications including road base, ready mix concrete products and asphalt.

G. Existing topography of the subject property, illustrated by contours not exceeding ten foot intervals.

Please refer to **Figure 4 - Existing Topography**.

H. Proposed topography of the subject property after mineral extraction has been completed, illustrated by contours not exceeding five foot intervals.

Please refer to **Figure 5(b) - Proposed Minimum Reclamation Grades**.

I. A phasing plan which illustrates the sequencing of mineral extraction, the locations of processing equipment, mineral stockpiles, staging areas, accessory uses and access routes.

Figure 2 - Mine Phasing Plan, depicts the mining phases, conveyor alignment, proposed conveyor tunnels under Biscayne Avenue and 170th Street, screening berms and other pertinent information.

PLAN A

J. Copies of MPCA application documents and operating permits.

The following permits are currently in place for Holcim's existing mining operations in the City of Empire and will be modified to include the subject property.

Air Quality: The mining operation at the subject property will operate within the parameters of Holcim's existing General Air Emission Permit No. 03700352-001, issued by the MPCA.

Water Quality: The subject property will be added to Holcim's existing NPDES/SDS MNG490073 Permit, issued by the Minnesota Pollution Control Agency. This is a General Permit which covers nonmetallic mining and associated activities. Notification will be made to the MPCA to request the addition of the subject property to the Company's existing permit. A copy of this notification will be provided to the City of Empire.

In addition, the Company's Storm Water Pollution Prevention Plan for their Empire operations will be updated to include the subject property.

Groundwater: There will be no Water Appropriation Permits required for the proposed operations on the subject property. No washing of product will take place at the subject property.

Holcim has two Water Appropriation Permits in place with the Minnesota DNR for their aggregate and ready mix processing operations located at the Empire Plant. Permit No. 2002-6116 allows for the use of 307.2 million gallons of water per year for sand and gravel washing. Permit No. 2016-0099 allows for the use of 4.0 million gallons of water per year for use in the ready mix concrete production process.

Storage Tanks: The Company is proposing to have two 2,000-gallon off-road diesel fuel tanks located on the subject property, along with a 1,000-gallon diesel fuel "truck mounted tank" within the pit. All tanks will be double-walled tanks, which will provide for secondary containment. Diesel fuel, motor oil and gasoline will also be present in the equipment and vehicles on-site. Site personnel are trained to respond accordingly should a spill occur. A designated employee conducts a daily environmental observation inspection, a weekly tank and waste inspection and a monthly storm water inspection during active operations, to ensure that all environmental processes and procedures are being followed. The Company maintains "operational" site specific environmental procedures which includes a spill response procedure. Site personnel are trained on these procedures and spill response materials are readily accessible on-site in the event of a spill. The Company maintains a Spill Prevention, Control and Countermeasures Plan (SPCC Plan) for their operations within City of Empire. The SPCC Plan will be amended to include the subject property.

In addition, there are five Aboveground Storage Tanks (ASTs) located at the Empire Plant as follows: a 10,000-gallon diesel fuel tank, a 1,000-gallon diesel fuel tank, a 500-gallon gasoline tank, a 300-gallon waste oil tank, and two 300-gallon motor oil tanks.

Any hazardous wastes which may be generated at the subject property would be minimal. All wastes are properly stored at the Empire Plant where they are collected and recycled by an MPCA certified transporter.

K. A description of the site hydrology and drainage characteristics during extraction for each phase. Identify any locations where drainage of any disturbed areas will not be controlled on the subject property and plans to control erosion, sedimentation and water quality of the runoff.

All storm water will drain internally to the low areas of the mine floor where it will infiltrate into the permeable sand and gravel surface. No process water will leave the property. Best Management Practices (BMPs) will be utilized to control erosion and sedimentation from going off-site or into the wetland areas. Silt fence will be put in place along the outer edge of the screening berms until vegetation is established. Berms will be seeded with MnDOT 25-141 General Roadside Seed Mix, or a similar seed mixture.

L. A description of the potential impacts to adjacent properties resulting from mineral extraction and off-site transportation, including but not limited to noise, dust, surface water runoff, groundwater contamination, traffic and aesthetics.

Noise: The potential exists for noise to be generated by the equipment utilized in the stripping and material extraction process, loading of the conveyor system, with a minimal amount of noise being generated from the conveyor system itself. Holcim has had an excellent working relationship with the City of Empire and their neighbors since they commenced mining operations in the Township in 2006.

Dust: The potential exists for dust to be generated during the stripping and material extraction process. The extracted material has a minimum of 4% moisture, which helps to suppress dust generation during the mining and conveying activities. During stripping operations, water trucks are used, as necessary, on haul roads to suppress dust.

Surface Water: There are no expected impacts to any surrounding surface waters.

Groundwater Contamination: There is the potential for groundwater contamination should a very large petroleum spill occur on the subject property, however, this risk is minimal.

Traffic: Impacts from traffic on the surrounding local roads will be minimal, as the majority of the extracted material will be conveyed to Holcim's Empire Plant. There will be the potential for "fill" sand sales from the subject property and/or clean soil imports to the subject property. When these sand sales and/or imports take place, there is the potential for high truck traffic for short durations of time.

PLAN A

Aesthetics: The mine plan proposes to stockpile fill sand on a portion of the subject property. The sand stockpile will be visible, approximately 50 feet high.

The above-referenced potential impacts and mitigation measures were also addressed in the Final Environmental Impact Statement, Sand & Gravel Mining and Accessory Uses, completed in 2006.

M. A description of the plan to mitigate potential impacts resulting from mineral extraction.

Noise: The mineral extraction activities will be conducted below grade which will act as a "buffer" for the transmission of noise. The majority of the extracted material will be sent via conveyor to Holcim's Empire Plant for processing, which will greatly decrease the noise versus the use of haul trucks. The equipment utilized during the extraction process will be equipped with "white noise" back-up alarms. In addition, the screening berms adjacent to the closest residences will further diffuse noise from the mining activities.

Dust: The mineral extraction process will be subject to the conditions of Air Emission Permit No. 03700352-001, which requires that the permittee *"prevent avoidable visible dust emissions from going beyond the lot line surrounding the stationary source."* The use of conveyors will greatly decrease the dust which is generated at the subject property. In order to control any dust emissions from going beyond the property lines, water will be applied to internal haul roads on a routine basis and Magnesium Chloride will be applied, as may be necessary. Vegetative cover will be established over the reclaimed areas in a timely manner as mining progresses at the subject property.

Surface Water: The proposed project will be subject to the conditions of the NPDES/SDS MNG490073 Permit. Best Management Practices will be put in place which will include, but will not be limited to: monthly storm water inspections, prevention of erosion/sediment runoff, maintenance of vegetation on the screening berms, proper storage of diesel fuel and other chemicals, as well as good housekeeping practices.

Groundwater Contamination: All petroleum products at the subject property will be stored in double-walled tanks in accordance with MPCA guidelines. The Company maintains "operational" site specific environmental procedures which includes a spill response procedure. Site personnel are trained on these procedures and spill response materials are readily accessible on-site in the event of a spill

Traffic: There will be no significant changes to the current daily traffic patterns or increase in traffic in the area surrounding the proposed mining project. During the initial set-up on the subject property, equipment deliveries will be made during normal business hours. Once the mining operation commences, there will be approximately 10 employee vehicles coming into and going from the property. As referenced in Section L above, there will be the potential for

fill sand sales from and/or clean soil imports to the subject property. When this occurs, there is the potential for high truck traffic for short durations of time. These sales would not exceed 300,000 tons in any given year.

Aesthetics: The mine plan proposes to stockpile fill sand on a portion of the subject property. The sand stockpile will be visible, approximately 50 feet high. Best efforts will be made to lower the mine floor before stockpiling to reduce visibility of stockpiled materials. Screening berms will also be put in place near the closest residences and along Biscayne Avenue, which will greatly aid in reducing stockpile visibility.

N. A description of site screening, landscaping and security fencing.

Screening berms of topsoil and overburden will be put in place near the closest residences as well as along Biscayne Avenue. The screening berms will be approximately 15-20 feet in height, with 3:1 outer slopes and 2:1 inside slopes. All berms will be seeded with Minnesota Department of Transportation 25-141 General Roadside Seed Mix or a similar mix to establish vegetation. A locking access gate will be in place at the site entrances. Please refer to **Figure 2 – Mine Phasing Plan**, for a depiction of the screening berms and the access locations. There is the potential for future mining to occur on properties located north of the subject property. This being the case, Holcim proposes to place ***"DANGER – MINE SITE – NO TRESPASSING"*** signage every 50 feet in strategic areas along the northern boundary of the subject property, in lieu of a screening berm.

O. A description of site rehabilitation in each phase of operation and upon completion of mineral extraction on the subject property.

Reclamation will be accomplished in increments (refer to **Figure 5(a) – Reclamation Phasing Plan**), as mining is completed by grading the excess sand and overburden to the proposed reclamation grades, as depicted on **Figure 5(b) - Proposed Minimum Reclamation Grades**. Compaction of reclaimed areas on the subject property will be performed at the discretion of Holcim. Topsoil will be spread over the final graded areas, after which the reclaimed area will be seeded or returned to agricultural production use.

P. A description of the method in which complaints about any aspect of the facility operation or off-site transportation are to be received and the method which complaints are to be resolved.

In an effort to ensure the greatest level of compatibility with its neighbors and with the City of Empire, Holcim will:

PLAN A

- Establish and maintain a mailing list of property owners and neighbors within one-half mile of the Company's operation. This list will include City officials.

- Request neighbors call Moe Connell, Plant Manager, at (612) 508-0519 or Patty Bestler, Regional Manager - Environmental & Land Services, at (612) 214-8577 with any complaints or concerns. Callers should provide as much information as possible, including details such as: the time of day, a detailed description of the concern, a description of sounds and sights, frequency of activity, vehicle license plate number and color of vehicle (if applicable), etc.

- Respond to all calls within 48 hours.

- Record all neighbor contacts and calls and send copies of such records to the City Administrator – Clerk. Any mitigation plans taken by the Company will also be recorded and sent to the City Administrator – Clerk.

PLAN A

HOLCIM

March 23, 2023

Mr. Charles Seipel-Teng
Administrator – Clerk
City of Empire
3385 197th Street
Farmington, MN 55024

RE: Holcim – MWR, Inc.
Interim Use Permit Application – Stonex-Nielsen Properties
(Additional Information)

Dear Mr. Seipel-Teng:

This letter is sent in response to Jane Kansier's letter to Holcim dated March 15, 2023, wherein additional information was requested for the IUP application which Holcim submitted on March 9, 2023. The information below is presented in the order set forth in Ms. Kansier's letter.

1) A description of the equipment which will be utilized during the operation of the proposed facility was included in our initial application (refer to the third paragraph on page 3), however, it will be as follows: front-end loaders, dozers, scrapers, backhoes, skid steers, compactors, crushers, screens, pumps, aerial lifts, tele-handlers, service trucks, pick-up trucks and other similar types of machinery.

2) The estimated average daily and peak daily number of vehicles accessing the facility for fill sand sales are as follows: Average Daily: 34 and Peak Daily: 120. Truck traffic associated with fill sand sales will exit onto Biscayne Avenue from the southern-most driveway located on the Stonex-Nielsen property and will then proceed north to 170th Street, and then west on 170th Street to the roundabout located at Highway 3, where they will proceed north or south to the specific project locations.

3) I have enclosed a copy of the Site Inventory Report Form (SIRF) which has been submitted to the MPCA, requesting the addition of this property to Holcim's existing NPDES/SDS MNG490073 Permit. As stated in our initial IUP submission, the conveyors, screens, crushers and stackers which will be utilized on the Stonex-Nielsen property will be transferred from other mining areas in Empire and as such, they are already covered under our MPCA Air Emissions Permit 03700352-101. The Stone-Nielsen property will be added to our existing SWPPP and SPCC Plans when stripping operations commence on the property.

PLAN A

4) I have enclosed nine copies of Figure 2 – Mine Phasing Plan, which now includes language pertaining to the site hydrology and drainage during the extraction process. As noted, all storm water will drain internally into the pit floor where it will infiltrate into the permeable sand and gravel surface. Silt fence will be installed near the boundary of the wetland areas in order to prevent erosion and sediment from going off-site. No storm water will leave the property.

5) I have attached copies of the easement agreements Holcim has in place with the Metropolitan Council and Mr. Richard O'Connor.

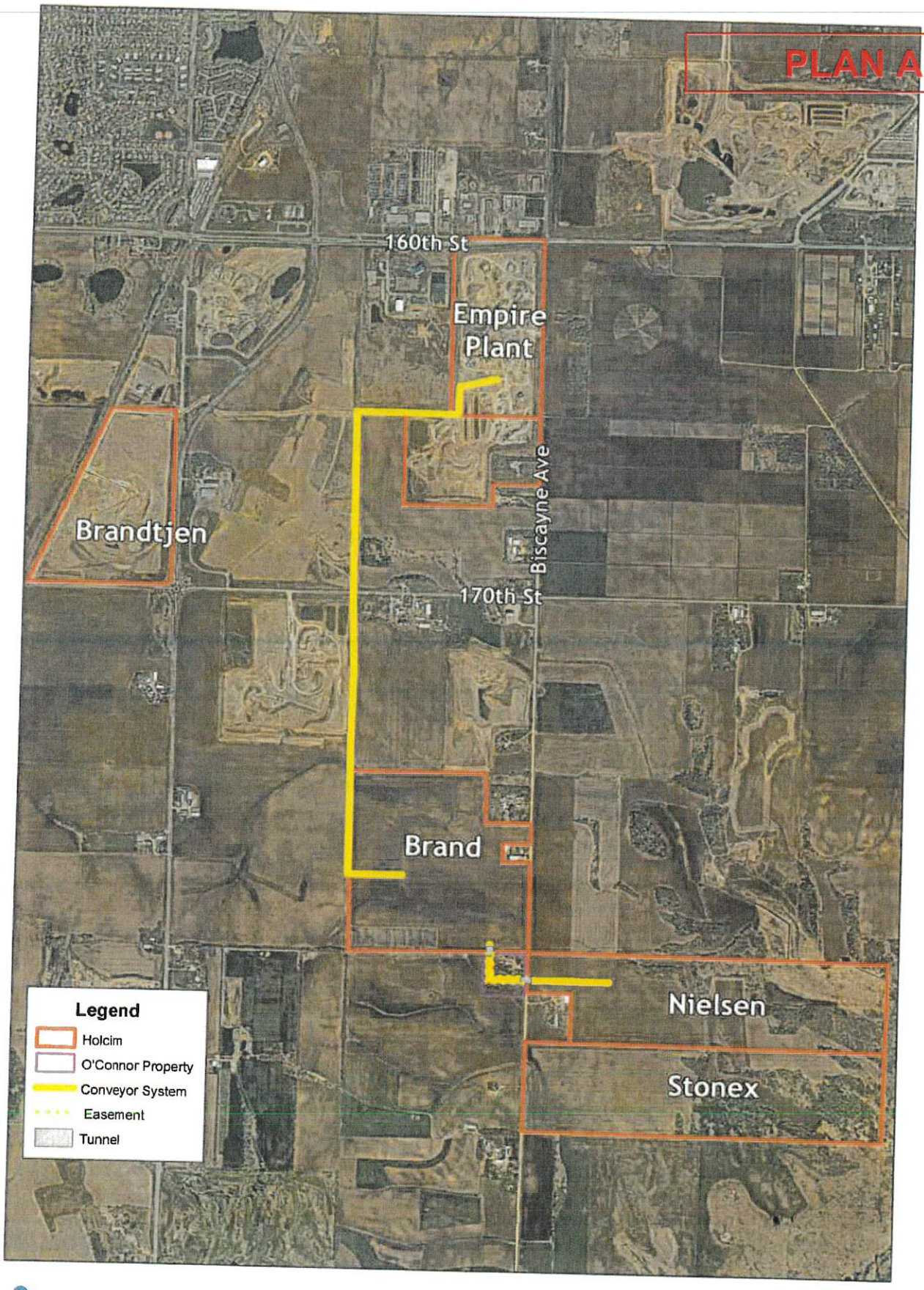
Your confirmation of the date(s) that our Zoning Amendment Permit and IUP Permit applications will be reviewed by the Planning Commission and City Council at their respective meetings is greatly appreciated.

Sincerely,

Patty Bestler
Regional Manager, Environmental & Land Services
Holcim – MWR, Inc.

Enclosures

cc: Moe Connell – Holcim – MWR, Inc.
Mike Murphy – Holcim – MWR, Inc.
Tom Schmit – Holcim – MWR, Inc.



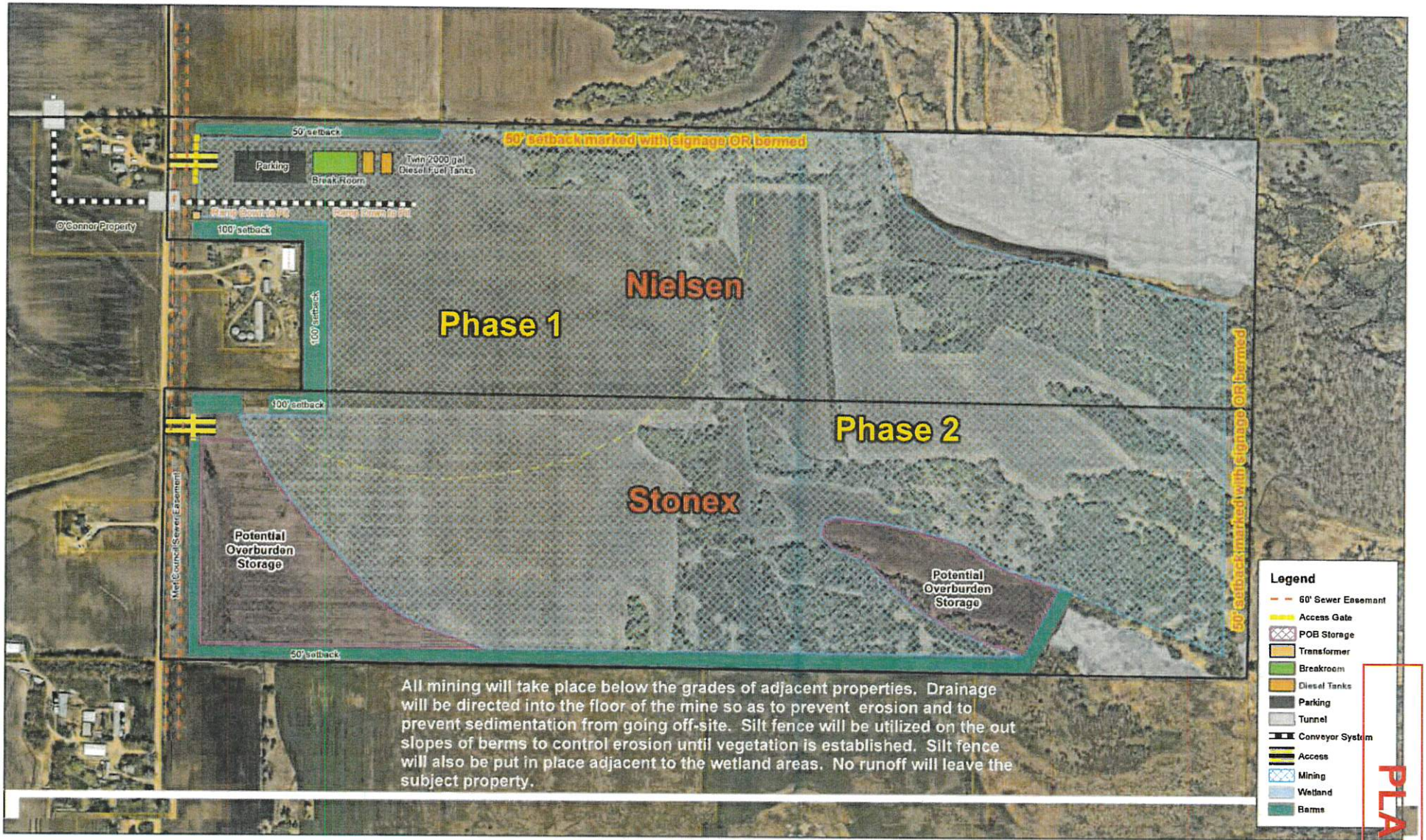
HOLCIM

Holcim - Empire Sand & Gravel
Empire Township, Dakota County, MN
Figure 1 - Project Location

0 625 1,250 2,500 Feet

Air Photo: 2021

N

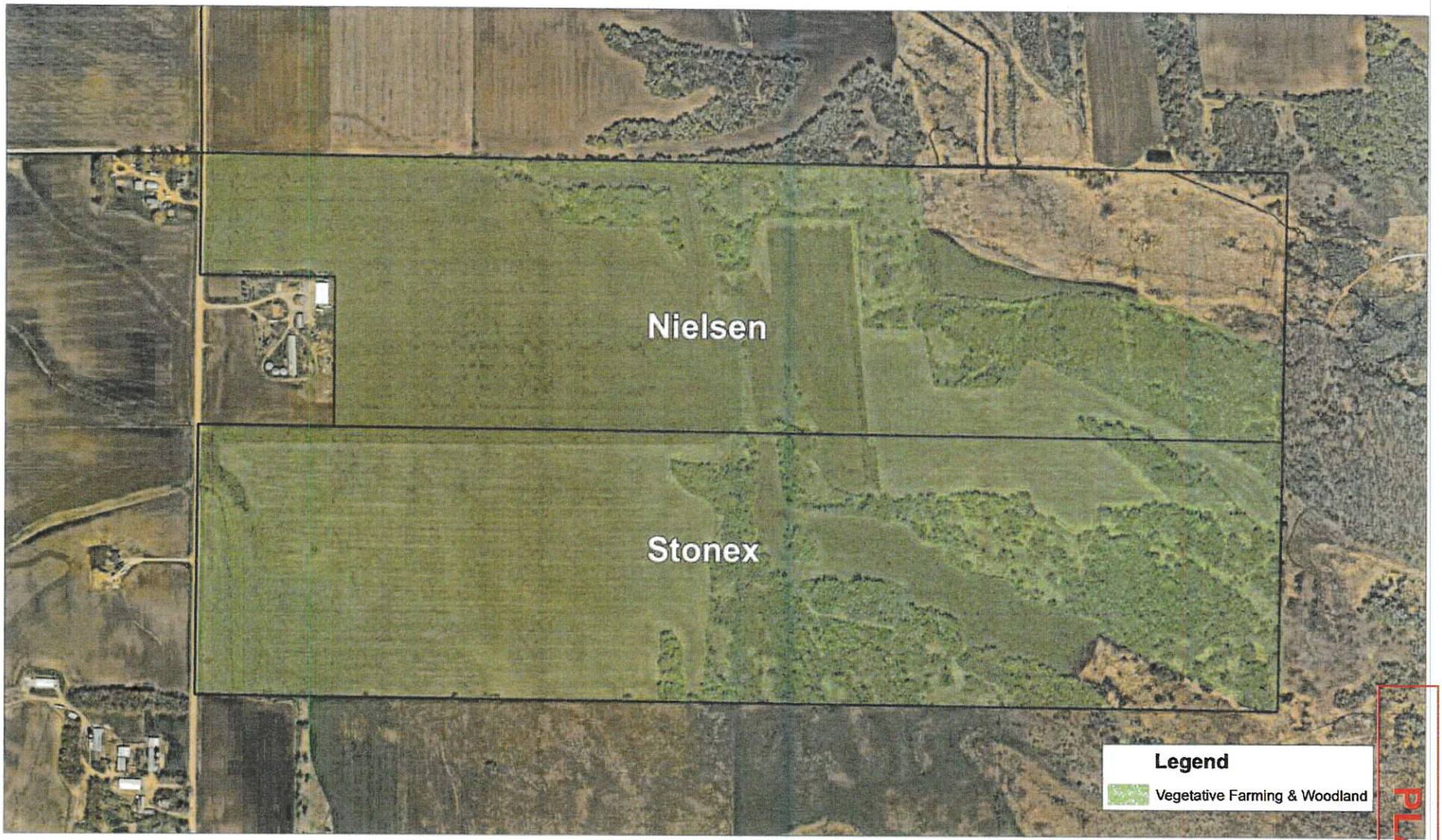


HOLCIM

Holcim - Empire Sand & Gravel
Empire Township, Dakota County, MN
Figure 2 - Mine Phasing Plan

Air Photo: 2021

PLAN A



HOLCIM

Holcim - Empire Sand & Gravel
Empire Township, Dakota County, MN
Figure 3 - Existing Land Use

0 375 750 1,500 Feet

Air Photo: 2021

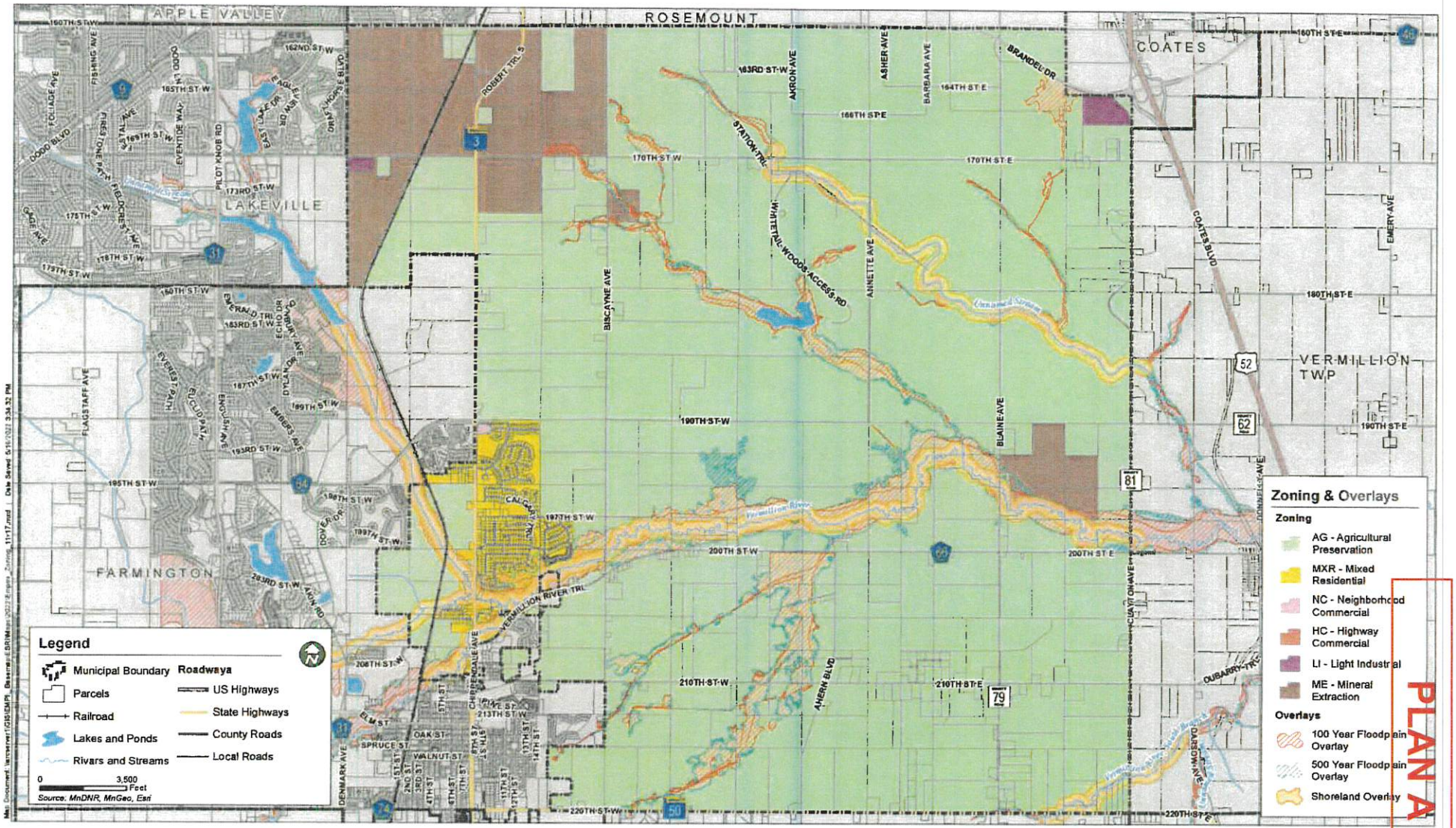
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PLAN A

Figure 3(a)

Zoning
May 2022

BOLTON & MENK
Real People. Real Solutions.



PLAN A



HOLCIM

Holcim - Empire Sand & Gravel
Empire Township, Dakota County, MN

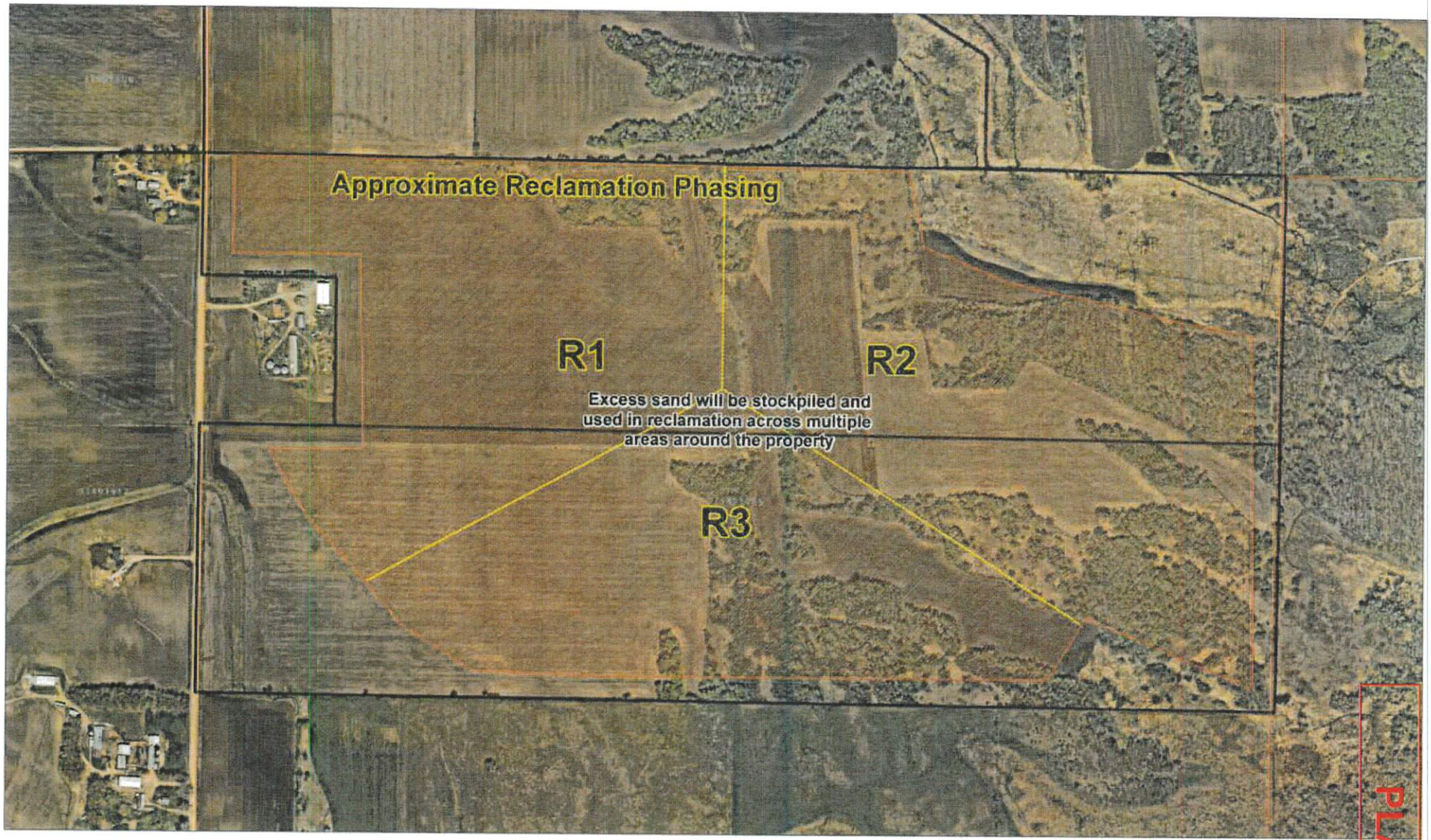
Figure 4 - Existing Topography

0 200 400 800 Feet

Air Photo: 2021

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PLAN



HOLCIM

Holcim - Empire Sand & Gravel
Empire Township, Dakota County, MN
Figure 5(a) - Reclamation Phasing Plan

0 375 750 1,500 Feet

Air Photo: 2021

PLANA



HOLCIM

Holcim - Empire Sand & Gravel
Empire Township, Dakota County, MN

Figure 5(b) - Proposed Minimum Reclamation Grades

0 200 400 800 Feet

Air Photo: 2021

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PLAN A

ATTACHMENT 1

PLAN A

Stonex Property — **BC-02-D6**

	RMS Error
UTM Easting (meters): 491,573.12	0.23
UTM Northing (meters): 4,947,803.22	0.14
Elevation (feet): 930.4	

Graphic Log	Gravel-Rich Zones (Drill Action)	Interval Sampled % +4	Depth (feet)	Description	
			0 to 1	TOPSOIL	Silty, black
			1 to 5	SAND	Fine to coarse sand. Minor gravel to 3 inches
			5 to 10	SAND	Fine to medium sand. Very minor gravel to 2-1/4 inches
			10 to 15	SAND	Fine to medium sand. No gravel
			15 to 20	SAND	Fine to coarse sand. No gravel
			20 to 25	SAND	Fine to medium sand. No gravel
		13.1	25 to 30	SAND	Fine to medium sand. Very minor gravel to 1-1/2 inches
			30 to 35	SAND	Fine to medium sand. Very minor gravel to 3-1/2 inches
			35 to 45	SAND	Fine to medium sand. No gravel
		37.2	45 to 51	SAND & GRAVEL	Fine to coarse sand. Gravel to 3 inches *Water table at 47 feet*
			51 to 54	SAND	Fine to medium sand, very iron-stained. No gravel
			54 to 55	TILL	Brown to gray

T.D. 55 ft.

Stonex Property **BC-02-D7**

PLAN A

		RMS Error
UTM Easting (meters):	491,75[illegible].98	0.2
UTM Northing (meters):	4,947,802.18	0.14
Elevation (feet):	902.6	

Graphic Log	Gravel-Rich Zones (Drill Action)	Interval Sampled % +4	Depth (feet)	Description	
			0 to 3	**TOPSOIL**	Silty, black
			3 to 5	**SILT**	Brown
		14.5	5 to 10	**SAND**	Fine sand, slightly dirty. Very minor gravel to 1-1/2 inches
			10 to 20	**SAND**	Fine to coarse sand. Very minor gravel to 1-3/4 inches
		19.8	20 to 30	**SAND**	Fine to coarse sand. Minor gravel to 1-3/4 inches *Water table at 21 feet*
			30 to 35	**SAND**	Fine sand, slightly dirty. No gravel
			35 to 37	**SAND & GRAVEL**	Fine to coarse sand. Gravel to 1-1/2 inches. Poor quality samples
			37 to 40	**SANDSTONE**	St. Peter Sandstone

T.D. 40 ft.

Richard Nielson Property **RN-02-A7**

PLAN A

UTM Easting (meters): 491,835.8 RMS Error: 0.11
UTM Northing (meters): 4,948,259.16 0.11
Elevation (feet): 905.3

Graphic Log	Gravel-Rich Zones (Drill Action)	Interval Sampled % +4	Depth (feet)	Description	
			0 to 2	**TOPSOIL**	Silty, black
			2 to 11	**SILT**	Brown
		33.3	11 to 16	**GRAVEL & SAND**	Fine to coarse sand. Gravel to 1-3/4 inches. Abundant pea gravel
			16 to 20	**SAND**	Fine to medium sand. Very minor gravel to 2 inches
		23.3	20 to 39	**SAND**	Medium to very coarse sand. Minor gravel to 1 inch, mostly pea gravel *Water table at 21 feet*
			39 to 45	**TILL**	Clayey, gray

T.D. 45 ft.

Richard Nielson Property **RN-02-B5**

PLAN A

	RMS Error
UTM Easting (meters):	491,457.5 0.16
UTM Northing (meters):	4,948,107.72 0.14
Elevation (feet):	934.6

Graphic Log	Gravel-Rich Zones (Drill Action)	Interval Sampled % +4	Depth (feet)	Description	
			0 to 4	TOPSOIL	Silty, black
			4 to 5	SILT	Brown
			5 to 6	SAND	Fine sand, dirty. No gravel
			6 to 10	SAND	Medium to coarse sand, slightly dirty. Minor gravel to 2-1/2 inches
			10 to 15	SAND	Fine to coarse sand. Minor gravel to 1-1/2 inches
			15 to 20	SAND	Fine to medium sand, clean. No gravel
			20 to 25	SAND	Fine to medium sand. Very minor gravel to 1-1/4 inches
			25 to 30	SAND	Fine to medium sand. Minor gravel to 1-3/4 inches
		21.1	30 to 35	SAND	Fine to medium sand. Very minor gravel to 1 inch
			35 to 40	SAND	Fine to coarse sand. Very minor gravel to 1-1/2 inches
			40 to 50	SAND	Fine to medium sand. Very minor gravel to 1-1/4 inches *Water table at 50 feet*
			50 to 66	SAND	Fine sand, dirty. No gravel. Lenses of silt present
			66 to 70	SAND & GRAVEL	Fine to medium sand, slightly dirty. Gravel to 3 inches

T.D. 70 ft.

MINNESOTA POLLUTION CONTROL AGENCY

520 Lafayette Road North
St. Paul, MN 55155-4194

Site inventory report form

NPDES/SDS Permit Program

National Pollutant Discharge Elimination System (NPDES)/
State Disposal System (SDS)

Doc Type: Notifications

Directions: Instead of completing an application to add or delete sites from existing permit coverage, the Minnesota Pollution Control Agency (MPCA) is offering this *Site inventory report form* to existing Permittees to make these changes easier. For each new site to be covered or for each site that is inactive and you wish to terminate coverage, complete the information below. Make additional copies of this form as needed. **The changes requested on this form are effective when the MPCA issues amended coverage.**

Submittal: Submit the completed form to the MPCA at MNG49.pca@state.mn.us at least 10 days prior to initiation of land disturbing activities at the new site(s). For the 'Special Waters' section, the MPCA has several documents and an interactive map called "Special Waters Search" available electronically on the MPCA's Stormwater website at https://www.pca.state.mn.us/water/stormwater-special-and-impaired-waters-search to help identify special waters near the proposed site. Listings of calcareous fens (Minn. R. 7050..0335, subp. 1e), trout streams (Minn. R. 6264.0050, subp. 2 and 4) and Outstanding Resource Value Waters (ORVWs) (Minn. R. 7050.0335) can be accessed electronically on the Office of the Revisor of Statutes' website at http://www.revisor.leg.state.mn.us.

Permittee name: Holcim - MWR, Inc. **Permit number:** MN G490073

Inventory of nonmetallic mining and associated sites by PLS coordinates

Let this list serve as an Inventory of all sites owned or operated. Include the activities and the Public Land Survey (PLS) coordinates for each site. Consider this a comprehensive listing of all the sites you want covered under this permit. For all sites listed below, you must complete pages 3-5 of this application. You only need to complete this inventory once (page 1 and 2).

Example: *JTs Aggregate owns and operates five pits and quarries throughout southern Minnesota. Three of the pits are construction sand and gravel pits, and one is a limestone quarry with a portable hot mix asphalt plant. The company dewaters from two pits in Fillmore County, but is unable to contain everything on site in one of the pits. The remaining pits are able to contain all stormwater on site. Coverage is being terminated on one pit. The chart below would be filled out as follows:*

		Dewatering			Stormwater				Treatment and disposal				
Site name, county PLS coordinate (Twp, range, section, Qtr-section)	**Station ID** (if applicable)	**Constr. sand/ gravel**	**Indl. sand**	**Sub. J2**	**J1**	**J2**	**D1**	**E2**	**Dewatering contained on site**	**Stormwater contained on site**	**Discharged dewatering to surface water**	**Discharged stormwater to surface water**	**Termination** (see page 5)
Sample S&G 1, Mower (TxxxN, RxxW, secxx, SE ½)					*X*					*X*			
Sample S&G 2, Fillmore (TxxxN, RxxW, secxx, NE ¼)		*X*			*X*						*X*	*X*	
Sample S&G 3, Fillmore (TxxxN, RxxW, secxx, NW ¼)		*X*			*X*				*X*	*X*			
Sample S&G 4, Olmsted (TxxxN, RxxW, secxx, SW ¼)						*X*	*X*			*X*			
Sample S&G 5, Olmsted (TxxxN, RxxW, secxx, NE ¼)													*X*
Stonex-Nielsen Sand & Gravel (T114N, R19W, Sec 16, N1/2 & S1/2)		x			x								

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Site name, county PLS coordinate (Twp, range, section, Qtr-section)	Station ID (if applicable)	Dewatering			Stormwater				Treatment and disposal				
		Constr. sand/ gravel	Indl. sand	Sub. J2	J1	J2	D1	E2	Dewatering contained on site	Stormwater contained on site	Discharged dewatering to surface water	Discharged stormwater to surface water	Termination (see page 5)

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Basic information

Complete the following for each site:

Site name: Stonex-Nielsen Sand & Gravel

Facility site street/road address (not P.O. Box): No Street Address

City: Empire State: MN Zip code: 55024 Telephone: 612-508-0519

Activity information

1. **Select the Primary Activity and Secondary Activity (if applicable) at the site:**

Subsector J1	Primary	Secondary
Construction sand and gravel mining (Standard Industrial Classification [SIC] Code 1442)	☒	☐
Industrial sand mining (SIC Code 1446)[1]	☐	☐
Subsector J2		
Dimension stone (SIC Code 1411)	☐	☐
Crushed and broken limestone mining/quarry area (SIC Code 1422)	☐	☐
Crushed and broken granite mining/quarry area (SIC Code 1423)	☐	☐
Crushed and broken stone mining/quarry area (not elsewhere classified, SIC Code 1429)	☐	☐
Subsector D1		
Hot mix asphalt production areas also known as asphalt paving mixtures and blocks (SIC Code 2951). This includes portable hot mix asphalt plants.	☐	☐
Subsector E2		
Concrete block and brick (SIC Code 3271)	☐	☐
Concrete products other than block and brick (SIC Code 3272)	☐	☐
Ready-mix concrete (SIC Code 3273)	☐	☐

[1] *If using flotation or acid leaching process(es), you are not eligible for this general permit and must apply for an individual permit.*

2. **Describe completely your stormwater management systems used to control stormwater at this site:**
Includes industrial stormwater ponds, sedimentation basins, and/or infiltration devices.

All stormwater will be contained on-site. It will be directed into the pit floor where it will infiltrate and/or evaporate.

3. **Describe completely your wastewater treatment systems at this site:**

Sanitatory waste water will be handled with portable sanitation units managed by a contracted vendor.

4. **How and where are the sediments and sludge removed from the stormwater and/or wastewater treatment systems at the facility disposed?**

No sand and gravel "wash" activities will take place on the subject property. Stormwater will drain internally towards the pit floor, where it will slowly infiltrate and/or evaporate.

5. **Have you updated your Pollution Prevention Plan for this site?** ☒ Yes ☐ No
You must do so prior to submittal of this form.

6. **List below all chemical additives that are used or proposed to be used at the facility.**

*This must include all process reagents, flocculants, biocides, wastewater treatment chemical additives, chlorine or other disinfectants, detergents, cleaning products, freeze conditioning agents, etc. MPCA approval is required for any additives that are new, increasing in usage, or not previously approved. Go to the MPCA's Chemical additive webpage at: http://www.pca.state.mn.us/a6krka9 to find the documents necessary to complete the approval process. Your additives will **not** be approved for use until you complete this process.*

Product name	**Purpose**	**Location in process of chemical addition**	**Frequency of addition**	**Type of application** (slug dosing or continuous feed)	**Average rate of use** (weight or volume per day)	**Maximum rate of use** (weight or volume per day)	**Previously approved? Yes or no**	**Date of approval** (mm/dd/yyyy)
No new chemicals will be utilized beyond what has been previously approved for the existing permit MNG490073.							☐ Yes ☐ No	
							☐ Yes ☐ No	
							☐ Yes ☐ No	
							☐ Yes ☐ No	

An Additional Chemical Additives attachment is available on the MPCA website at http://www.pca.state.mn.us/water/permits/index.html if more space is needed.

7. **Do you use chemical dust suppressants at your facility?** ☒ Yes ☐ No

If yes, fill out table below:

Product name	**Location of use**	**Frequency of use**	**Average rate of use** (weight or volume per day)	**Maximum rate of use** (weight or volume per day)
Calcium Chloride	Internal Haul Roads	1-2 times per year		

Attach the Material Safety Data Sheets, complete product labels and any other information on chemical composition, aquatic toxicity, human health, and environmental fate for each chemical dust suppressant. Chemical dust suppressants are approved separately from the process required in question 6.

8. ***What is the source of the intake water supply for the facility?***

Intake water supply includes all make-up water supplied to the facility. (Choose one)

☐ Municipal, include city name: _____

☐ Groundwater, intake location: _____

☐ Surface water, include name: _____

☒ No make-up water: _____

If this is a non-municipal water supply, have you already obtained a Minnesota Department of Natural Resources (DNR) water appropriations permit? ☐ Yes ☐ No ☒ Not applicable

If yes, what is the DNR permit number: _____ DNR permit expiration date (mm/dd/yyyy): _____

Is the intake water supply chlorinated or otherwise disinfected? ☐ Yes ☐ No

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9. **Has the facility been required to complete an Environmental Impact Statement (EIS) and/or Environmental Assessment Worksheet (EAW)?**
☒ Yes ☐ No ☐ Not applicable

If yes, attach a copy of the completed EIS/EAW and note: Sand & Gravel Mining & Accessory Uses, Empire Township, Dakota County, Minnesota *(Title)* 6/2/2005 *Date (mm/dd/yyyy)*

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10. **What is the fate of the sewage generated by the facility?**
Examples are septic tank and drainfield, routing to municipal sanitary sewer, portable containment systems, etc.

Portable Sanitation units are utilized with the waste being managed by a contracted vendor.

Discharges from site

		Yes	No
11.	**Is stormwater leaving the site?**	☐	☒
12.	**Is water from the dewatering of a mine, pit or quarry from Subsector J1 and J2 facilities leaving the site?**	☐	☒
13.	**Do you dewater from a mine, pit, or quarry to a control device?** *Control devices include settling ponds, sedimentation basins, and/or infiltration basins. Devices shall be designed consistent with accepted engineering practices to control the pollutants of concern.*	☐	☒
14.	**Do you have any of the following non-stormwater (also considered wastewater) activities conducted at your site?** *Check all that apply.*	☐	☒

- ☐ a. Aggregate wash water from Subsector J1 and J2 facilities.
- ☐ b. Dredging operations from Subsector J1 and J2 facilities.
- ☐ c. Installation, construction, and operation of wet scrubbers at asphalt production areas, including portable asphalt plants (Subsector D1).
- ☐ d. Washing trucks, mixers, transport buckets, forms and/or other equipment at concrete block and brick, concrete products other than block and brick, and ready-mix concrete facilities (Subsector E2).
- ☐ e. Uncontaminated scale deck wash water that does not use detergents, solvents, or degreasers.
- ☐ f. Stormwater and deck wash water collected in holding tanks under scales.
- ☐ g. Wash water associated with cleaning of mobile equipment that does not use detergents, solvents, or degreasers.
- ☐ h. Waters used for sawing stone or dust control on crushers, conveyors, associated equipment, stockpiles, and site roadways.
- ☐ i. Boiler blowdown and reverse osmosis reject.
- ☐ j. Low or high pressure steam curing.
- ☐ k. Noncontact cooling water used for dryer, pump and air compressor cooling.

15.	**Is wastewater from any activities in question #14 discharged to surface waters of the state?** *If yes, you are **not** eligible for General Permit coverage and must apply for an individual permit.*	☐	☒
16.	**Is water used for other purposes leaving the site?** *Describe use of water if applicable. Depending on the type of water leaving the site, you may not be eligible for coverage under general permit MNG490000; contact MPCA permitting staff to appropriately permit this site.*	☐	☒

Surface water discharges location information

17. **If you answered 'yes' to questions 11 and/or 12 above, please provide the discharge location along with receiving water name. This is the overflow point where water that has left the site is entering surface water. Discharge points may include pipes and culverts. An example of a route to receiving waters is "to unnamed wetlands adjacent to Black Lake", "to an unnamed ditch to the Cottonwood River", "to Twin Lakes" or "to an unnamed pond adjacent to Lake Cornelia via storm sewer."**

Route to receiving water: N/A PLS coordinates: _____

Type of discharge: _____
(List all types, i.e., pit site dewatering, stormwater runoff, overflow from control device.)

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Average discharge flow rate: _____ Maximum discharge flow rate: _____

(Flow rates are not necessary for discharges that solely consist of stormwater runoff.)

Flow duration and frequency:

Month of flow: _____ Days/week: _____ Hours/day: _____

Complete the table for each surface water discharge point. If this is an existing facility, refer to the current NPDES/SDS Permit for Station ID. For new facilities, enter as much information as available. If more space is needed for additional stations, attach additional pages.

Station ID: SD

Township (26-71 or 101-168)	Range (1-51)	Section (1-36)	¼ Section (NW, NE, SW, SE)	¼ of ¼ Section (NW, NE, SW, SE)
T N	R ☐E ☐W			
Latitude	**Longitude**	**Datum**	**Coordinate Collection Method**	**Date Coordinate Collected**

Receiving water name: _____

Special waters

		Yes	No
18.	**Is the outfall at any of the following receiving waters?**		
a.	Designated ORVW? Defined in Minn. R. 7050.0255 and listed in Minn. R. 7050.0335.	☐	☒
b.	DNR-posted fish-spawning areas (Minn. R. 6264.0125)?	☐	☒
c.	DNR-designated trout waters? Trout waters locations are listed in Minn. R. 6264.0050, subp. 1 and 3	☐	☒
	If yes, you are not eligible for a general permit and must apply for an individual permit.		
19.	**Is the outfall at any of the following?**		
a.	Within one mile of an ORVW?	☐	☒
b.	Within one mile of a DNR-designated Trout Steam?	☐	☒
c.	Within one mile of an impaired water?	☐	☒
	If the answer is yes to any of the above, the permit has specific requirements for your discharge. See Sections 2.6.14 and 2.6.41 of the permit to insure you are able to meet these requirements. If not, an individual permit may be necessary.		

Site map

20. Attach a site map showing:

a. Location of all discharge points.

b. Location of all overflow points from control devices.

c. Directions of stormwater runoff (including stormwater that is contained/infiltrated on site).

Coverage termination

21. **In order to terminate coverage of a site, the Permittee must ensure:**

a. The site closure achieves stabilization, or

b. There is no stormwater runoff associated with nonmetallic mining and/or mine dewatering from the site.

22. **Provide the name and contact information for the new owner or operator that is responsible for the site, if applicable:**

Moe Connell, Plant Manager - 612-508-0519

Patty Bestler, Regional Manager, Environmental & Land Services - 651-683-8133

Certification

BY:
City of Empire
Dakota County, Minnesota
3385 197th Street
Farmington, MN 55024

The attached pages are a true and correct document filed in the office of the City of Empire, Dakota County, MN.

Charles Seipel-Teng

On the 27th day of April 2023, Notary Public, within and for said County, personally appeared Charles Seipel-Teng, to me personally known as the Clerk-Administrator in and for the City of Empire, Dakota County name in the foregoing instrument, was signed and sealed on behalf of said City authority of its City Council and have acknowledged said instrument to be the free act and deed of said municipal city.

Notary Public

MELANIE DAWN MCCRACKEN
NOTARY PUBLIC
MINNESOTA
My Commission Exp. Jan 31, 2027

Drafted by: City of Empire
Dakota County, MN
3385 197th Street
Farmington, MN 55024

SEAL


Closest Distance to East
Property Line
2,813 ft (US)

MEMORANDUM

Date:	September 24, 2024
To:	Empire Planning Commission
From:	Jenni Faulkner, Consulting Planner
RE:	3. Information and Discussion on Proposed Cannabis Regulations

Attachment(s): *2024-09-24 Cannabis CC Memo with attachments.pdf*
2024-09-24 Empire CC Cannibis Presentation.pdf

Date: September 24, 2024

To: Empire City Council

From: Jane Kansier, AICP, Consulting Planner
Jenni Faulkner, Consultant Planner

Item: **Discussion on Cannabis Regulation**

Background

In 2023 and 2024, Minnesota Statutes Chapter 342, legalizing adult-use cannabis and establishing a regulatory framework over the cannabis industry. The statute also identifies the obligations and restrictions on how a city may regulate cannabis businesses.

The purpose of this memorandum is to outline the issues and provide some suggestions for changes to Empire's ordinances.

Definitions

The statute includes several definitions relating to cannabis, and how it is regulated. The following definitions are most relevant to the purposes of this discussion:

- **Cannabis:** Plant with more than 0.3 percent delta-9 tetrahydrocannabinol (THC) concentration.
- **Cannabinoids:** Any edible cannabinoid or nonedible cannabinoid product authorized for sale in 2022.
- **Cannabis Business:** Retail, cultivation, manufacture, transport, testing facility, event, and delivery service
- **Hemp:** Plant with less than 0.3 percent delta-9 tetrahydrocannabinol (THC) concentration
- **Lower-Potency Hemp Edible:** Products derived from hemp and contain no more than 5 milligrams of delta-9 tetrahydrocannabinol(THC) concentration intended to be eaten or consumed as a beverage
- **Hemp Business:** Lower-potency hemp edible manufacturer or lower-potency hemp edible retailer.
- **Office of Cannabis Management (OCM)**: State regulatory office created to oversee the implementation and regulation of the adult-use cannabis market

License Types

Minnesota Law identifies 13 different types of businesses licenses. These include:

1. **Cannabis Microbusiness:** May cultivate, manufacture and package products for sale, and may operate one retail location.
2. **Cannabis Mezzobusiness:** May cultivate, manufacture and package products for sale, and

may operate up to three retail locations.

3. **Cannabis Cultivator:** May cultivate and package cannabis products for sale to another licensed cannabis business.
4. **Cannabis Manufacturer:** May manufacture and package cannabis and hemp products for sale to a licensed cannabis retailer.
5. **Cannabis Retailer:** May sell cannabis and hemp products to customers and patients.
6. **Cannabis Wholesaler:** May purchase and/or sell cannabis and hemp products from another licensed cannabis business.
7. **Cannabis Transporter:** May transport cannabis and hemp products to licensed cannabis businesses.
8. **Cannabis Testing Facility:** May obtain and test cannabis and hemp products from a licensed cannabis business.
9. **Cannabis Event Organizer:** May organize temporary cannabis events lasting no more than four days.
10. **Cannabis Delivery Service:** May Purchase cannabis, cannabis products, and hemp products from retailers or cannabis business with retail endorsement for transport and delivery to customers.
11. **Lower-Potency Hemp Edible Manufacturer:** May manufacture and package lower-potency hemp edibles for consumer sale, and sell hemp concentrate and lower-potency hemp edibles to other cannabis businesses.
12. **Lower-Potency Hemp Edible Retailer:** May sell lower-potency hemp edibles to customers over 21 years of age.
13. **Cannabis Research:** Limited to an institution of higher education; may conduct cannabis crop research and cultivate and manufacture cannabis products.

Industrial Hemp Development is not regulated under Chapter 342, but is regulated by Minnesota Statutes, Chapter 18K. Under Minnesota law, industrial hemp is an agricultural crop. Industrial hemp developers may possess, transport, process, sell, or buy industrial hemp grown pursuant to Chapter 18K, or lawfully grown in another state, and may sell hemp plant parts and propagules and concentrate to a cannabis business or hemp business licensed under Chapter 342.

The attached table (Cannabis Business Licenses and Empire Zoning Ordinance) includes more detail on what is permitted under each licenses type.

City of Empire Zoning Requirements

The Empire Zoning Ordinance does not specifically address cannabis or the various cannabis business license types. However, these uses may fall under several of the categories of the permitted and conditional uses listed in various zoning districts. The attached table identifies which business licenses fall under which use type, and where these uses are allowed under the current zoning ordinance.

According to Minnesota Statutes Chapter 342, the OCM is the primary regulatory agency for cannabis businesses. The statute specifically lists what a city may or may not do with regard to these businesses.

The City **MAY NOT**	The City **MAY**
• Prohibit licensed cannabis businesses • License cannabis businesses	• Determine which zoning districts may allow specific uses • Establish a minimum distance from schools, residential treatment facilities, and playgrounds/ball fields located in parks • Establish hours of operation • Regulate signage • Regulate noise levels • Regulate odor • Register businesses within the City • Prohibit use of cannabis in public parks and public places

Zoning Questions to Consider

As the City considers what type of regulations to establish, there a several questions to answer. General questions include:

1. Where should the sale of cannabis and hemp products be permitted in the City of Empire?
2. Where should the growth, production, and manufacturing of cannabis and hemp products be permitted in the City of Empire?
3. Should licensed cannabis and hemp businesses be a permitted use or a conditional use? The answer to this question could depend on the use and/or the district. In other words, some businesses may be permitted in some districts, and CUPs in others.

Specific question to consider include:

1. Should Cannabis and Hemp Businesses be restricted from operating close to schools?
    a. Within 1000 feet?
    b. Within 500 feet?
    c. No
2. Should Cannabis and Hemp Businesses be restricted from operating within 500 feet from:
    a. Day Cares
    b. Residential Treatment Facilities
    c. Attractions in parks (like playgrounds/baseball fields)
3. Should Cannabis and Hemp Business operations be regulated more than other types of retail, plant growth, and manufacturing operations are currently regulated?
4. Does the City want to regulate Cannabis and Hemp the same or differently that it regulates liquor and tobacco?

Number of Retail Operations:

Minnesota Statutes require at least one retail location per every 12,500 residents be permitted. This means Empire can limit Cannabis Retail to a single license. A question to consider is whether the City should limit the number of retail licenses.

Registration/Compliance

The OCM is currently the exclusive licensing entity for cannabis businesses. Although the City may

not license or prohibit cannabis businesses, the OCM will forward any license application to the City for review. The City will have 30 days to determine if the proposed license complies with local zoning regulations.

The City can also require cannabis businesses register with the City. Registration will provide the City with a record of cannabis/hemp retail locations and ownership. If the City requires registration, the City is mandated to perform all compliance obligations. These may include annual inspections, ensuring sales are made in compliance with statute, and so on. If the City does not require registration, the County is responsible for compliance monitoring. In some cases, counties are allowing local cities that require registration to authorize the county to perform the compliance obligations. We have contacted Dakota County officials to determine if this will be available to Empire, but we have not received an answer at this time.

Questions to be considered about registration and compliance include:

1. Should the City undertake registration?
2. If so, what should the registration fee be? This will be determined by estimated City costs for administration and compliance
3. Should the City delegate registration to Dakota County, if possible? In this case, the County is obligated to undertake compliance obligations

Timeline for Action:

There is no specific action required at this time. Before the end of this year, the City of Empire must adopt any specific ordinances or regulations for cannabis-related businesses. The proposed schedule is:

Date	Action
September 17th	Planning Commission Discussion
September 24th	City Council Discussion
October 1st and 15th	Planning Commission Discussion on Draft Ordinances
November 19th	Planning Commission Public Hearing on Zoning Ordinance Amendments
November 26th	City Council Review/Adoption of Zoning Ordinance Amendments

Planning Commission Discussion:

The Planning Commission discussed this issue on September 17, 2024. The Planning Commission had the following comments and recommendations:

1. Regulations should be as conservative or restrictive as possible.
2. No cannabis retail in Neighborhood Commercial district; only allow in Highway Commercial with maximum separation allowed.
3. Limit hours of operations to the maximum extent allowed in the statute.
4. Require registration with City for now unless the County decides to do it. At that time, the City can reconsider the ordinance.
5. More information is needed on how the statute addresses security, fencing, and lighting for Cultivation, Manufacturers and Retailers- what's required? The City may want to have its own regulations.
6. How and what can Cannabis events be regulated?
7. More info on Cannabis Mezzobusinesses- is it the use that follows the zoning, or do we have to allow manufacturing and retail at same locations? And does this situation apply to other

license types?

8. Prohibit on-site consumption where possible, including parks and public property, and events.
9. Can the City impose additional setbacks from both rights-of-way and property lines in the AG District?
10. Should cannabis uses in the AG district require an IUP?

Recommendation:

Staff recommends the Council consider the above information. In the long term, staff believes the City should consider the following:

Updates to the Zoning Ordinance that will include, at a minimum, the following:

- Definitions specific to cannabis and hemp operations
- Definitions of specific cannabis and hemp uses
- Identification of where these uses should be permitted and how (by right or CUP)
- Identification of performance standards (distances, signs, noise, etc.)

The City will also want to consider adoption of a specific cannabis/hemp ordinance that will:

- Outline registration process (if needed)
- Establish fees related to registration
- Cross-reference Zoning Ordinance

Attachments:

1. Cannabis Business Licenses and Empire Zoning Ordinance Table
2. A Guide for Local Governments on Adult Use Cannabis

Cannabis Business Licenses and Empire Zoning Ordinance

Minnesota Statutes			Empire Zoning Ordinance	
Business Type	**Activities Included**	**Size and Other Restrictions**	**Corresponding Empire Land Uses**	**Allowed Zoning Districts**
Cannabis Microbusiness (342.28)	• Grow and harvest cannabis plants; • Make cannabis concentrate; • Make hemp concentrate, including hemp concentrate with a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent as measured by weight; • Manufacture artificially derived cannabinoids; • Manufacture adult-use cannabis products, lower-potency hemp edibles, and hemp-derived consumer products for public consumption; • Purchase immature cannabis plants and seedlings and cannabis flower from another cannabis business or industrial hemp grower; • Purchase cannabis concentrate, hemp concentrate, and artificially derived cannabinoids from another cannabis business; • Package and label adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, and hemp-derived consumer products for sale to customers; • Sell immature cannabis plants and seedlings, adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, hemp-derived consumer products, and other products authorized by law to other cannabis businesses and to customers; • Operate an establishment that permits on-site consumption of edible cannabis products and lower-potency hemp edibles; and • Perform other actions approved by the office.	• Up to 5,000 square feet of plant canopy. The office may adjust plant canopy limits upward to meet market demand • Up to one-half acre of mature, flowering plants The office may increase the limit to no more than one acre if the office determines that expansion is consistent with the goals of the statute. • May operate one retail location. • May permit on-site consumption on a portion of premises	Agricultural Service Establishments	AG
			Agricultural Uses	AG ME
			Retail Sales	NC HC
			Off-Sale Liquor Sales	NC HC
			Agricultural Production and Sales	LI
			Greenhouses and Nurseries	LI
			Production, Assembly and Processing Facilities	LI

Minnesota Statutes			Empire Zoning Ordinance	
Business Type	**Activities Included**	**Size and Other Restrictions**	**Corresponding Empire Land Uses**	**Allowed Zoning Districts**
Cannabis Mezzobusiness (342.29)	• Grow and harvest cannabis plants; • Make cannabis concentrate; • Make hemp concentrate, including hemp concentrate with a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent as measured by weight; • Manufacture artificially derived cannabinoids; • Manufacture adult-use cannabis products, lower-potency hemp edibles, and hemp-derived consumer products for public consumption; • Process medical cannabinoid products; • Purchase immature cannabis plants and seedlings and cannabis flower from another cannabis business or industrial hemp grower; • Purchase cannabis concentrate, hemp concentrate, and artificially derived cannabinoids from another cannabis business; • Package and label adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, and hemp-derived consumer products for sale to customers; • Sell immature cannabis plants and seedlings, adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, hemp-derived consumer products, and other products authorized by law to other cannabis businesses and to customers; and • Perform other actions approved by the office.	• Up to 15,000 square feet of plant canopy. The office may adjust plant canopy limits upward to meet market demand • Up to one acre of mature, flowering plants The office may increase the limit to no more than three acres if the office determines that expansion is consistent with the goals of the statute. • May operate up to three retail locations. • A person, cooperative, or business holding a cannabis mezzobusiness license may also hold a cannabis event organizer license	Agricultural Service Establishments	AG
			Agricultural Uses	AG ME
			Retail Sales	NC HC
			Off-Sale Liquor Sales	NC HC
			Agricultural Production and Sales	LI
			Greenhouses and Nurseries	LI
			Production, Assembly and Processing Facilities	LI

Minnesota Statutes			Empire Zoning Ordinance	
Business Type	**Activities Included**	**Size and Other Restrictions**	**Corresponding Empire Land Uses**	**Allowed Zoning Districts**
Cannabis Cultivator (342.30)	• Grow cannabis plants within the approved amount of space from seed or immature plant to mature plant; • Harvest cannabis flower from a mature plant; • Package and label immature cannabis plants and seedlings and cannabis flower for sale to other cannabis businesses; • Transport cannabis flower to a cannabis manufacturer located on the same premises; and • Perform other actions approved by the office.	• Up to 30,000 square feet of plant canopy at an indoor facility. The office may adjust plant canopy limits upward to meet market demand. • Up to two acres of mature, flowering plants at an outdoor location. The office may increase the limit to no more than four acres if the office determines that expansion is consistent with the goals identified in MN Statute. • A person, cooperative, or business holding a cannabis cultivator license may also hold a cannabis manufacturing license, license to grow industrial hemp, and cannabis event organizer license.	Agricultural Service Establishment	AG
			Agricultural Uses	AG ME
			Agricultural Production and Sales	LI
			Greenhouses and Nurseries	LI
			Production Assembly and Processing Facilities	LI
Cannabis Manufacturer (342.31)	• Purchase cannabis flower, cannabis products, hemp plant parts, hemp concentrate, and artificially derived cannabinoids from a cannabis microbusiness, a cannabis mezzobusiness, a cannabis cultivator, another cannabis manufacturer, or a cannabis wholesaler; • Purchase hemp plant parts and propagules and hemp concentrate from an industrial hemp grower; • Accept cannabis flower from unlicensed persons who are at least 21 years of age provided that the cannabis manufacturer does not accept more than two ounces from an individual on a single occasion; • Make cannabis concentrate;	• The office shall establish a limit on the manufacturing of cannabis products, lower-potency hemp edibles, or hemp-derived consumer products a cannabis manufacturer may perform. • A person, cooperative, or business holding a cannabis manufacturer license may also hold a cannabis cultivator license, license to grow industrial hemp, and	Production Assembly and Processing Facilities	LI

Minnesota Statutes			Empire Zoning Ordinance	
Business Type	**Activities Included**	**Size and Other Restrictions**	**Corresponding Empire Land Uses**	**Allowed Zoning Districts**
	• Manufacture artificially derived cannabinoids; • Manufacture adult-use cannabis products, lower-potency hemp edibles, and hemp-derived consumer products for public consumption; • Package and label adult-use cannabis products, lower-potency hemp edibles, and hemp-derived consumer products for sale to customers; • Sell cannabis concentrate, hemp concentrate, artificially derived cannabinoids, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products to other cannabis businesses; and • Perform other actions approved by the office.	cannabis event organizer license.		
Cannabis Retailer (342.32)	• Purchase immature cannabis plants and seedlings, cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products from other cannabis businesses; • Purchase lower-potency hemp edibles from a licensed lower-potency hemp edible manufacturer; • Sell immature cannabis plants and seedlings, adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, hemp-derived consumer products, and other products authorized by law to customers; and • Perform other actions approved by the office.	• A cannabis retailer may operate up to five retail locations. • A person, cooperative, or business holding a cannabis retailer license may also hold a cannabis delivery service license, and a cannabis event organizer license.	Retail Sales	NC HC
			Off-Sale Liquor Sales	NC HC
Cannabis Wholesaler (342.33, 342.34))	• Purchase immature cannabis plants and seedlings, cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products from cannabis microbusinesses, cannabis mezzobusinesses, cannabis cultivators, cannabis manufacturers, and cannabis microbusinesses;	• A person, cooperative, or business holding a cannabis wholesaler license may also hold a cannabis transporter license, a cannabis delivery service license, and a cannabis event organizer license.	Office/Warehouse	LI

Minnesota Statutes			Empire Zoning Ordinance	
Business Type	**Activities Included**	**Size and Other Restrictions**	**Corresponding Empire Land Uses**	**Allowed Zoning Districts**
	• Purchase hemp plant parts and propagules and hemp concentrate from industrial hemp growers; • Sell immature cannabis plants and seedlings, cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products to other cannabis businesses; • Sell lower-potency hemp edibles to lower-potency hemp edible retailers; • Import hemp-derived consumer products and lower-potency hemp edibles that contain hemp concentrate or artificially derived cannabinoids that are derived from hemp plants or hemp plant parts; and • Perform other actions approved by the office.	• Cannabis plants, cannabis flower, and cannabis products must be physically separated from all other products, including but not limited to lower-potency hemp edibles and hemp-derived consumer products, in a manner that prevents any cross-contamination. • A cannabis wholesaler shall maintain compliance with state and local building, fire, and zoning requirements or regulations.	Distribution Facilities	LI
			Agricultural Production and Sales	LI
Cannabis Transporter (342.35, 342.36)	• Transport immature cannabis plants and seedlings, cannabis flower, cannabis products, artificially derived cannabinoids, hemp plant parts, hemp concentrate, lower-potency hemp edibles, and hemp-derived consumer products from cannabis businesses, cannabis cultivators, cannabis manufacturers, cannabis wholesalers, lower-potency hemp edible manufacturers, and industrial hemp growers to others; and • Perform other actions approved by the office.	• A person, cooperative, or business holding a cannabis transporter license may also hold a cannabis wholesaler license, a cannabis delivery service license, and a cannabis event organizer license. • The office may limit the number of cannabis transporter licenses a person or business may hold.	Fleet Vehicle Parking or Storage (associated with permitted use)	HC LI
			Distribution Facilities	LI
Cannabis Testing Facility (342.37, 342.38)	• Obtain and test immature cannabis plants and seedlings, cannabis flower, cannabis products, hemp plant parts, hemp concentrate, artificially	• A person, cooperative, or business holding a cannabis testing facility license may not	Offices and Medical Facilities	NC

Minnesota Statutes			Empire Zoning Ordinance	
Business Type	**Activities Included**	**Size and Other Restrictions**	**Corresponding Empire Land Uses**	**Allowed Zoning Districts**
	derived cannabinoids, lower-potency hemp edibles, and hemp-derived consumer products	own or operate, or be employed by, any other cannabis business or hemp business.	Office/Warehouse	LI
Cannabis Event Organizer (342.39, 342.40)	• Organize a temporary cannabis event lasting no more than four days.	• A person, cooperative, or business holding a cannabis event organizer license may not hold a cannabis testing facility license, a lower-potency hemp edible manufacturer license, or a lower-potency hemp edible retailer license. • The office may limit the number of cannabis event licenses that a person or business may hold. • A cannabis event organizer must receive local approval, including obtaining any necessary permits or licenses issued by a local unit of government, before holding a cannabis event.	Offices and Medical Facilities	NC
			Office/Warehouse	LI
Cannabis Delivery Services (342.41, 342.42)	• Purchase cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products from licensed cannabis businesses;	• A person, cooperative, or business holding a cannabis delivery service license may also hold a cannabis retailer license, a cannabis	Fleet Vehicle Parking or Storage (associated with a permitted use)	HC LI

Minnesota Statutes			Empire Zoning Ordinance	
Business Type	**Activities Included**	**Size and Other Restrictions**	**Corresponding Empire Land Uses**	**Allowed Zoning Districts**
	• Transport and deliver cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumable products to customers; and • Perform other actions approved by the office.	wholesaler license, a cannabis transporter license, and a cannabis event organizer license, subject to the ownership limitations that apply to those licenses.	Distribution Facilities	LI
Lower-Potency Hemp Edible Manufacturer (342.45)	• Purchase hemp plant parts, hemp concentrate, and artificially derived cannabinoids from cannabis microbusinesses, cannabis mezzobusinesses, cannabis manufacturers, cannabis wholesalers, and lower-potency hemp edible manufacturers; • Purchase hemp plant parts and propagules and hemp concentrate from industrial hemp growers; • Make hemp concentrate; • Manufacture artificially derived cannabinoids and lower-potency hemp edibles for public consumption; • Package and label lower-potency hemp edibles for sale to customers; • Sell hemp concentrate, artificially derived cannabinoids, and lower-potency hemp edibles to other cannabis businesses and hemp businesses; and • Perform other actions approved by the office.	• Must take place in a facility and on equipment that meets the applicable health and safety requirements established by the office; • Must comply with all applicable packaging, labeling, and testing requirements.	Production Assembly and Processing Facilities	LI

Minnesota Statutes			Empire Zoning Ordinance	
Business Type	**Activities Included**	**Size and Other Restrictions**	**Corresponding Empire Land Uses**	**Allowed Zoning Districts**
Lower-Potency Hemp Edible Retailer (342.46)	• Sell lower-potency hemp edibles to individuals who are at least 21 years of age; • Sell other products or items for which the lower-potency hemp edible retailer has a license or authorization or that do not require a license or authorization.	• May permit on-site consumption of lower-potency hemp edibles on a portion of its premises if it has an on-site consumption endorsement. • Food and beverages not otherwise prohibited may be prepared and sold on site provided that the lower-potency hemp edible retailer complies with all relevant state and local laws, ordinances, licensing requirements, and zoning requirements. • May offer recorded or live entertainment provided that the lower-potency hemp edible retailer complies with all relevant state and local laws, ordinances, licensing requirements, and zoning requirements.	Retail Sales	NC HC
			Off-Sale Liquor Sales	NC HC

Minnesota Statutes			Empire Zoning Ordinance	
Business Type	**Activities Included**	**Size and Other Restrictions**	**Corresponding Empire Land Uses**	**Allowed Zoning Districts**
Cannabis Research (342.28, Subd. 1a)	• Grow cannabis plants from seed or immature plant to mature plant and harvest cannabis flower from a mature plant; • Make cannabis concentrate; • Make hemp concentrate, including hemp concentrate with a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent as measured by weight; • Manufacture artificially derived cannabinoids; • Manufacture adult-use cannabis products, lower-potency hemp edibles, and hemp-derived consumer products for public consumption; • Purchase immature cannabis plants and seedlings and cannabis flower from another cannabis microbusiness, a cannabis mezzobusiness, a cannabis manufacturer, or a cannabis wholesaler; • Purchase hemp plant parts and propagules from an industrial hemp grower licensed under chapter 18K; • Purchase hemp concentrate from an industrial hemp processor licensed under chapter 18K; • Purchase cannabis concentrate, hemp concentrate, and artificially derived cannabinoids from another cannabis microbusiness, a cannabis mezzobusiness, a cannabis manufacturer, or a cannabis wholesaler for use in manufacturing adult-use cannabis products, lower-potency hemp edibles, or hemp-derived consumer products; and • Perform other actions approved by the office.	• An institution of higher education, any department or program of an institution of higher education that is regionally or nationally accredited, and any entity working in partnership with an institution of higher education may apply for a cannabis microbusiness license to conduct cannabis crop research.	Agricultural Service Establishments	AG
			Agricultural Uses	AG ME
			Greenhouses and Nurseries	LI

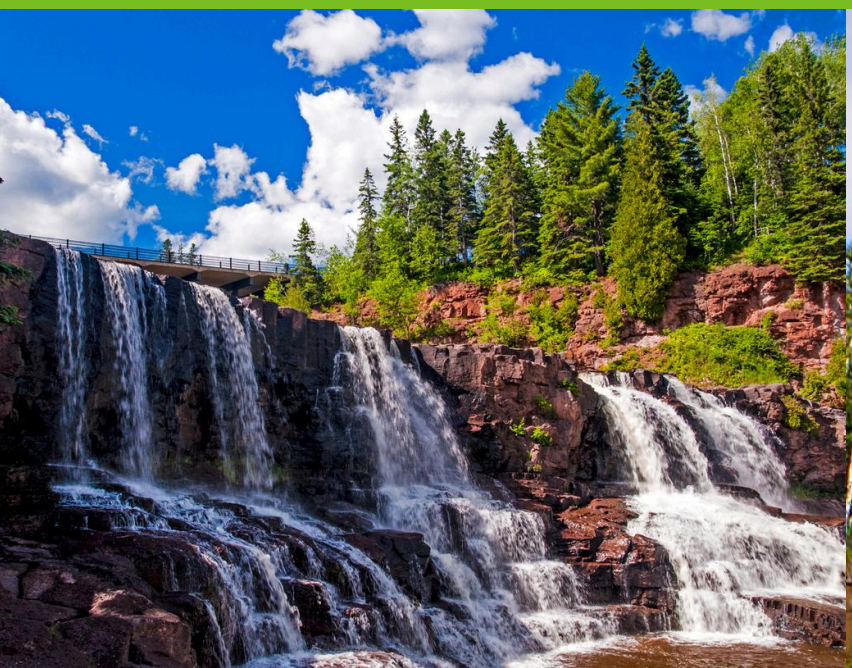
Minnesota Statutes			Empire Zoning Ordinance	
Business Type	**Activities Included**	**Size and Other Restrictions**	**Corresponding Empire Land Uses**	**Allowed Zoning Districts**
Industrial Hemp Development (MN Statutes 18K)	• Industrial hemp is an agricultural crop in this state. • A person may possess, transport, process, sell, or buy industrial hemp that is grown pursuant to this chapter or lawfully grown in another state. • May sell hemp plant parts and propagules to a cannabis business or hemp business licensed under chapter 342. • May sell hemp concentrate to a cannabis business or hemp business licensed under chapter 342.	• Must obtain a license from the Commissioner of Agriculture before growing, processing, or researching industrial hemp	Agricultural Uses	AG ME

MINNESOTA
OFFICE OF CANNABIS MANAGEMENT





A Guide for Local Governments on Adult-Use Cannabis





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Introduction

This guide serves as a general overview of **Minnesota's new adult-use cannabis law**, and how **local governments** can expect to be involved. The guide also provides important information about Minnesota's new Office of Cannabis Management (OCM), and the office's structure, roles, and responsibilities. While medical cannabis continues to play an important role in the state's cannabis environment, this guide is primarily focused on the adult-use cannabis law and marketplace.

The following pages outline the variety of cannabis business licenses that will be issued, provide a broad summary of important aspects of the adult-use cannabis law, and cover a wide range of expectations and authorities that relate to local governments. This guide also provides best practices and important requirements for developing a local cannabis ordinance.

Chapter 342 of Minnesota law was established by the State Legislature in 2023 and was updated in 2024. Mentions of "adult-use cannabis law" or "the law" throughout this guide refer to Chapter 342 and the changes made to it.

As of this guide's date of publication, state regulations governing the adult-use cannabis market have not yet been published—**this document will be updated** when such regulations become effective.



This guide is not a substitute for legal advice, nor does it seek to provide legal advice. Local governments and municipal officials seeking legal advice should consult an attorney.

About OCM

Minnesota's **Office of Cannabis Management** is the state regulatory office created to oversee the implementation and regulation of the adult-use cannabis market, the medical cannabis market, and the consumer hemp industry. Housed within OCM are the **Division of Medical Cannabis** (effective July 1, 2024), which operates the medical cannabis program, and the **Division of Social Equity**, which promotes development, stability, and safety in communities that have experienced a disproportionate, negative impact from cannabis prohibition and usage.

MINNESOTA
OFFICE OF CANNABIS MANAGEMENT

OCM, through Chapter 342, is tasked with establishing rules and policy and exercising its regulatory authority over the Minnesota cannabis industry. In its duties, OCM is mandated to:

- Promote public health and welfare.
- Protect public safety.
- Eliminate the illicit market for cannabis flower and cannabis products.
- Meet the market demand for cannabis flower and cannabis products.
- Promote a craft industry for cannabis flower and cannabis products.
- Prioritize growth and recovery in communities that have experienced a disproportionate, negative impact from cannabis prohibition.

OCM governs the application and licensing process for cannabis and hemp businesses, specific requirements for each type of license and their respective business activities, and conducts enforcement and inspection activities across the Minnesota cannabis and hemp industries.

License Types

Minnesota law allows for **13** different types of business licenses, each fulfilling a unique role in the cannabis and hemp supply chain. In addition to license types below, OCM will also issue endorsements to license holders to engage in specific activities, including producing, manufacturing, and sale of medical cannabis for patients.

Microbusiness

Microbusinesses may cultivate cannabis and manufacture cannabis products and hemp products, and package such products for sale to customers or another licensed cannabis business. Microbusiness may also operate a single retail location.

Mezzobusiness

Mezzobusinesses may cultivate cannabis and manufacture cannabis products and hemp products, and package such products for sale to customers or another licensed cannabis business. Mezzobusiness may also operate up to three retail locations.

Cultivator

Cultivators may cultivate cannabis and package such cannabis for sale to another licensed cannabis business.

Manufacturer

Manufacturers may manufacture cannabis products and hemp products, and package such products for sale to a licensed cannabis retailer.

Retailer

Retailers may sell immature cannabis plants and seedlings, cannabis, cannabis products, hemp products, and other products authorized by law to customers and patients.

Wholesaler

Wholesalers may purchase and/or sell immature cannabis plants and seedlings, cannabis, cannabis products, and hemp products from another licensed cannabis business. Wholesalers may also import hemp-derived consumer products and lower-potency hemp edibles.

License Types (continued)

Transporter

Transporters may transport immature cannabis plants and seedlings, cannabis, cannabis products, and hemp products to licensed cannabis businesses.

Testing Facility

Testing facilities may obtain and test immature cannabis plants and seedlings, cannabis, cannabis products, and hemp products from licensed cannabis businesses.

Event Organizer

Event organizers may organize a temporary cannabis event lasting no more than four days.

Delivery Service

Delivery services may purchase cannabis, cannabis products, and hemp products from retailers or cannabis business with retail endorsements for transport and delivery to customers.

Medical Cannabis Combination Business

Medical cannabis combination businesses may cultivate cannabis and manufacture cannabis and hemp products, and package such products for sale to customers, patients, or another licensed cannabis business. Medical cannabis combination businesses may operate up to one retail location in each congressional district.

Lower-Potency Hemp Edible Manufacturer

Lower-potency hemp edible manufacturers may manufacture and package lower-potency hemp edibles for consumer sale, and sell hemp concentrate and lower-potency hemp edibles to other cannabis and hemp businesses.

Lower-Potency Hemp Edible Retailer

Lower-potency hemp edible retailers may sell lower-potency hemp edibles to customers.

Each license is subject to further restrictions on allowable activities. Maximum cultivation area and manufacturing allowances vary by license type. Allowable product purchase, transfer, and sale between licensees are subject to restrictions in the law.

The Adult-Use Cannabis Law

Minnesota's new adult-use cannabis law permits the personal use, possession, and transportation of cannabis by those 21 years of age and older, and allows licensed businesses to conduct cultivation, manufacturing, transport, delivery, and sale of cannabis and cannabis products.

For Individuals



- **Possession limits**:
  - Flower - 2 oz. in public, 2 lbs. in private residence
  - Concentrate - 8 g
  - Edibles (including lower-potency hemp) - 800 mg THC
- **Consumption** only allowed on private property or at licensed businesses with on-site consumption endorsements. Consumption not allowed in public.
- **Gifting** cannabis to another individual over 21 years old is allowed, subject to possession limits.
- **Home cultivation** is limited to four mature and four immature plants (eight total) in a single residence. Plants must be in an enclosed and locked space.
- **Home extraction** using volatile substances (e.g., butane, ethanol) is not allowed.
- **Unlicensed sales** are not allowed.

For Businesses



- **Advertising**:
  - May not include or appeal to those under 21 years old.
  - Must include proper warning statements.
  - May not include misleading claims or false statements.
  - Billboards are not allowed.
- The flow of all products through the supply chain must be tracked by the state-authorized **tracking system**.
- All products sold to consumers and patients must be **tested for contaminants**.
- **Home delivery** is allowed by licensed businesses.

The Cannabis Licensing Process

An applicant will take the following steps to proceed from application to active licensure. As described, processes vary depending on social equity status and/or whether the type of license being sought is capped or uncapped in the general licensing process.

License Preapproval: Early Mover Process for Social Equity Applicants

The license preapproval process is a one-time application process available for verified social equity applicants. State law requires OCM to open the application window on July 24, 2024, and close the window on August 12, 2024. The preapproval process is available for the following license types, and all are capped in this process: microbusiness, mezzobusiness, cultivator, retailer, wholesaler, transporter, testing facility, and delivery service.

Preapproval steps:

1. Applicant's social equity applicant (SEA) status verified.
2. Complete application and submit application fees.
3. Application vetted for minimum requirements by OCM.
4. Application (if qualified) entered into lottery drawing.
5. If selected in lottery, OCM completes background check of selected applicant and issues license preapproval.
6. Applicant with license preapproval* submits business location and amends application accordingly.
7. OCM forwards completed application to local government.
8. Local government completes certification of zoning compliance.
9. OCM conducts site inspection.
10. When regulations are adopted, license becomes active, operations may commence.

*For social equity applicants with license preapproval for microbusiness, mezzobusiness, or a cultivator license, they may begin growing cannabis plants prior to the adoption of rules if OCM receives approval from local governments in a form and manner determined by the office. This is only applicable to cultivation and does not authorize retail sales or other endorsed activities of the licenses prior to the adoption of rules.

The Cannabis Licensing Process (cont.)

The general licensing process will align with the adoption of rules and OCM will share more information about the timing of general licensing process. The general licensing process includes social equity applicants and non-social equity applicants.

General Licensing: Cultivator, Manufacturer, Retailer, Mezzobusiness

1. Complete application and submit application fees.
2. Application vetted for minimum requirements by OCM.
3. Application (if qualified) entered into lottery drawing.
4. If selected in lottery, OCM completes background check of selected applicant and issues preliminary approval.
5. Applicant with preliminary approval submits business location and amends application accordingly.
6. OCM forwards completed application to local government.
7. Local government completes certification of zoning compliance.
8. OCM conducts site inspection.
9. License becomes active, operations may commence.*

General Licensing: Microbusiness, Wholesaler, Transporter, Testing Facility, Event Organizer

1. Complete application and submit application fees.
2. Application vetted for minimum requirements by OCM.
3. For qualified applicants, OCM completes background check of vetted applicant and issues preliminary approval.
4. Selected applicant submits business location and amends application accordingly.
5. OCM forwards completed application to local government.
6. Local government completes certification of zoning compliance.
7. OCM conducts site inspection.
8. License becomes active, operations may commence.*

*For businesses seeking a retail endorsement (microbusiness, mezzobusiness, and retailer), a valid local retail registration is required prior to the business commencing any retail sales. See Page 16 for information on the local retail registration process.

General Authorities

Local governments in Minnesota have various means of oversight over the cannabis market, as provided by the adult-use cannabis law. Local governments may not issue outright bans on cannabis business, or limit operations in a manner beyond what is provided by state law.

Cannabis Retail Restrictions (342.13)

Local governments may limit the number of retailers and microbusiness/mezzobusinesses with retail endorsements allowed within their locality, as long as there is **at least one retail location per 12,500 residents**. Local units of government are not obligated to seek out a business to register as cannabis business if they have not been approached by any potential applicants, but cannot prohibit the establishment of a business if this population requirement is not met. Local units of government may also issue more than the minimum number of registrations. Per statutory direction, a municipal cannabis store (Page 19) cannot be included in the minimum number of registrations required. For population counts, the state demographer estimates will likely be utilized.

Tribal Governments (342.13)

OCM is prohibited from and will not issue state licenses to businesses in Indian Country without consent from a tribal nation. Tribal nations hold the authority to license tribal cannabis businesses on tribal lands – this process is separate than OCM's licensing process and authority. Subject to compacting, Tribal nations may operate cannabis businesses off tribal lands. There will be more information available once the compacting processes are complete.

Taxes (295.81; 295.82)

Retail sales of taxable cannabis products are subject to the state and local sales and use tax and a 10% gross receipts tax. Cannabis gross receipts tax proceeds are allocated as follows: 20% to the local government cannabis aid account and 80% to the state general fund. Local taxes imposed solely on sale of cannabis products are prohibited.

Cannabis retailers will be subject to the same real property tax classification as all other retail businesses. Real property used for raising, cultivating, processing, or storing cannabis plants, cannabis flower, or cannabis products for sale will be classified as commercial and industrial property.

General Authorities (cont.)

Retail Timing Restrictions (342.13)

Local governments may prohibit retail sales of cannabis between the hours of 8 a.m. and 10 a.m. Monday-Saturday, and 9 p.m. and 2 a.m. the following day.

Operating Multiple Locations with One License

Certain cannabis licenses allow for multiple retail locations to be operated under a single license, with the following limitations:

- **Retailers**: up to five retail locations.
- **Mezzobusinesses**: up to three retail locations.
- **Microbusinesses:** up to one retail location.
- **Medical cannabis combination businesses**: one retail location per congressional district. Additionally, medical cannabis combination businesses may cultivate at more than one location within other limitations on cultivation.

For all other license types, one license permits the operation of one location. Each retail location requires local certification and/or registration.



Zoning and Land Use

Buffer Guidelines (342.13)

State law does not restrict how a local government conducts its zoning designations for cannabis businesses, except that they may prohibit the operation of a cannabis business within 1,000 feet of a school, or 500 feet of a day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including playgrounds and athletic fields.

Zoning Guidelines

While each locality conducts its zoning differently, a few themes have emerged across the country. For example, cannabis manufacturing facilities are often placed in industrial zones, while cannabis retailers are typically found in commercial/retail zones. Cannabis retail facilities align with general retail establishments and are prohibited from allowing consumption or use onsite, and are also required to have plans to prevent the visibility of cannabis and hemp-derived products to individuals outside the retail location. Industrial hemp is an agricultural product, and should be zoned as such.

Cannabis businesses should be zoned under existing zoning ordinances in accordance with the license type or endorsed activities held by the cannabis business. Note that certain types of licenses may be able to perform multiple activities which may have different zoning analogues. In the same way municipalities may zone a microbrewery that predominately sells directly to onsite consumers differently than a microbrewery that sells packaged beer to retailers and restaurants, so too might a municipality wish to zone two microbusinesses based on the actual activities that each business is undertaking. Table 1, included on Pages 13 and 14, explains the types of activities that cannabis businesses might undertake, as well as, some recommended existing zoning categories.

Zoning and Land Use (cont.)

Table 1: Cannabis and Hemp Business Activities

Endorsed Activity	License Type Eligible to Do Endorsed Activity	Description of Activity	Comparable Districts	Municipal Considerations
Cultivation	Cultivator Mezzobusiness Microbusiness Medical Cannabis Combination	"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis plants, cannabis flower, hemp plants, or hemp plant parts.	Indoor: Industrial, Commercial, Production Outdoor: Agricultural	Odor Potential need for transportation from facility Waste, water, and energy usage Security
Cannabis Manufacturing, Processing, Extraction	Manufacturer Mezzobusiness Microbusiness Medical Cannabis Combination	This group of endorsed activities turn raw, dried cannabis and cannabis parts into other types of cannabis products, e.g. edibles or topicals.	Industrial, Commercial, Production	Odor Potential need for transportation from facility Waste, water, and energy usage Security
Hemp Manufacturing	Lower-Potency Hemp Edible (LPHE) Manufacturing	These business convert hemp into LPHE edible prodcuts.	Industrial, Commercial, Production	Odor Waste, water, and energy
Wholesale	Wholesale Cultivator Manufacturer Mezzobusiness Microbusiness Medical Cannabis Combination	This activity and license type allows a business to purchase from a business growing or manufacturing cannabis or cannabis products and sell to a cannabis business engaged in retail.	Industrial, Commercial, Production	Need for transportation from facility Security

Zoning and Land Use (cont.)

Table 1: Cannabis and Hemp Business Activities (continued)

Endorsed Activity	License Type Eligible to Do Endorsed Activity	Description of Activity	Comparable Districts	Municipal Considerations
Cannabis Retail	Retailer Mezzobusiness Microbusiness Medical Cannabis Combination	This endorsed activity and license types allow a business to sell cannabis and cannabis products directly to consumers.	Retail, Neighborhood Shopping Districts, Light Industrial, Existing districts where off-sale liquor or tobacco sales are allowed.	Micros may offer onsite consumption, similar to breweries. Micros and Mezzos may include multiple activities: cultivation, manufacture, and/or retail.
Transportation	Cannabis Transporter	This license type allows a company to transport products from one license type to another.		Fleet based business that will own multiple vehicles, but not necessarily hold a substantial amount of cannabis or cannabis products.
Delivery	Cannabis Delivery	This license type allows for transportation to the end consumer.		Fleet based business that will own multiple vehicles, but not necessarily hold a substantial amount of cannabis or cannabis products.
Events	Event Organizer	This license entitles license holder to organizer a temporary event lasting no more than four days.	Anywhere that the city permits events to occur, subject to other restrictions related to cannabis use.	On site consumption. Retail sales by a licensed or endorsed retail business possible.

Local Approval Process

Local governments play a critical role in the licensing process, serving as a near-final approval check on cannabis businesses nearing the awarding of a state license for operations. Once an applicant has been vetted by OCM and is selected for proceeding in the verification process, they are then required to receive the local government's certification of zoning compliance and/or local retail registration before operations may commence.



Local Certification of Zoning Compliance (342.13; 342.14)

Following OCM's vetting process, local governments must **certify** that the applicant with preliminary approval has achieved **compliance with local zoning ordinances** prior to the licensee receiving final approval from OCM to commence operations.

During the application and licensing process for cannabis businesses, OCM will notify a local government when an applicant intends to operate within their jurisdiction and request a certification as to whether a proposed cannabis business complies with local zoning ordinances, and if applicable, whether the proposed business complies with state fire code and building code.

According to Minnesota's cannabis law, a local unit of government has 30 days to respond to this request for certification of compliance. If a local government does not respond to OCM's request for certification of compliance within the 30 days, the cannabis law allows OCM to issue a license. OCM may not issue the final approval for a license if the local government has indicated they are not in compliance.

OCM will work with local governments to access the licensing software system to complete this zoning certification process.

Local Approval Process (cont.)

Local Retail Registration Process (342.22)

Once the licensing process begins, local government registration applies to cannabis retailers or other cannabis/hemp businesses seeking a retail endorsement. Local governments must issue a retail registration after verifying that:

- The business has a valid license or license preapproval issued by OCM.
- The business has paid a registration fee or renewal fee to the local government;
    - Initial registration fees collected by a local government may be $500 or half the amount of the applicable initial license fee, whichever is less, and renewal registration fees may be $1,000 or half the amount of the applicable renewal license fee, whichever is less.
- The business is found to be in compliance with Chapter 342 and local ordinances.
- If applicable, the business is current on all property taxes and assessments for the proposed retail location.

Local registrations may also be issued by counties if the respective local government transfers such authorities to the county.

Determining a Process for Limiting Retail Registrations

If a local government wishes to place a limitation on the number of retailers and microbusiness/mezzobusinesses with retail endorsements allowed within their locality (as long as there is at least one retail location per 12,500 residents, see Page 10), state law does not define the process for a local government's selection if there are more applicants than registrations available. A few options for this process include the use of a lottery, a first-come/first-serve model, a rolling basis, and others. Local governments should work with an attorney to determine their specific process for selection if they wish to limit the number of licensed cannabis retailers per 342.13. Local governments are not required to limit the number of licensed cannabis retailers.

Local Approval Process (cont.)

Local governments are permitted specific authorities for registration refusal and registration suspension, in addition to—and not in conflict with—OCM authorities.

Registration and Renewal Refusals

Local governments may refuse the registration and/or certification of a license renewal if the license is associated with an individual or business who no longer holds a valid license, has failed to pay the local registration or renewal fee, or has been found in noncompliance in connection with a preliminary or renewal compliance check.



Local Registration Suspension (342.22)

Local governments may suspend the local retail registration of a cannabis business or hemp business if the business is determined to not be operating in compliance with a local ordinance authorized by 342.13 or if the operation of the business poses an immediate threat to the health and safety of the public. The local government must immediately notify OCM of the suspension if it occurs. OCM will review the suspension and may reinstate the registration or take enforcement action.

Expedited Complaint Process (342.13)

Per state law, OCM will establish an expedited complaint process during the rulemaking process to receive, review, read, and respond to complaints made by a local unit of government about a cannabis business. Upon promulgation of rules, OCM will publish the complaint process.

At a minimum, the expedited complaint process shall require the office to provide an initial response to the complaint within seven days and perform any necessary inspections within 30 days. Within this process, if a local government notifies OCM that a cannabis business poses an immediate threat to the health or safety of the public, the office must respond within one business day.

Inspections & Compliance Checks

Local governments are permitted specific business inspection and compliance check authorities, in addition to—and not in conflict with—OCM authorities.

Inspections and Compliance Checks (342.22)

Local governments must conduct **compliance checks** for cannabis and hemp businesses holding retail registration **at least once per calendar year**. These compliance checks must verify compliance with age verification procedures and compliance with any applicable local ordinance established pursuant to 342.13. OCM maintains inspection authorities for all cannabis licenses to verify compliance with operation requirements, product limits, and other applicable requirements of Chapter 342.





Municipal Cannabis Stores

As authorized in Chapter 342.32, local governments are permitted to apply for a cannabis retail license to establish and operate a municipal cannabis store.

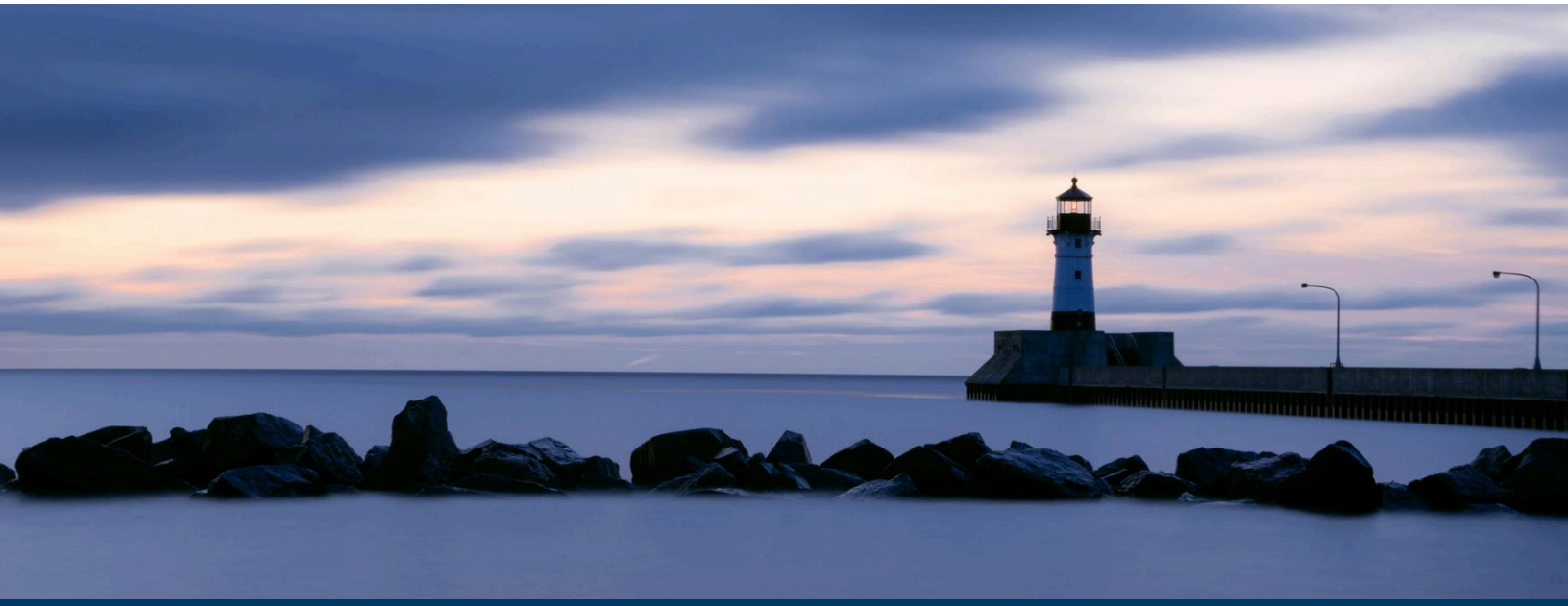


State law requires OCM issue a license to a city or county seeking to operate a single municipal cannabis store if the city or county:

- Submits required application information to OCM,
- Meets minimum requirements for licensure, and
- Pays applicable application and license fee.

A municipal cannabis store will not be included in the total count of retail licenses issued by the state under Chapter 342.

A municipal cannabis store cannot be counted as retail registration for purposes of determining whether a municipality's cap on retail registrations imposed by ordinance.



Creating Your Local Ordinance

As authorized in 342.13, a local government may adopt a local ordinance regarding cannabis businesses. Establishing local governments' ordinances on cannabis businesses in a timely manner is critical for the ability for local cities or towns to establish local control as described in the law, and is necessary for the success of the statewide industry and the ability of local governments to protect public health and safety. The cannabis market's potential to create jobs, generate revenue, and contribute to economic development at the local and state level is supported through local ordinance work. The issuance of local certifications and registrations to prospective cannabis businesses is also dependent on local ordinances.



- Local governments may not prohibit the possession, transportation, or use of cannabis, or the establishment or operation of a cannabis business licensed under state law.
- Local governments may adopt reasonable restrictions on the time, place, and manner of cannabis business operations (see Page 11).
- Local governments may adopt interim ordinances to protect public safety and welfare, as any studies and/or further considerations on local cannabis activities are being conducted, until January 1, 2025. A public hearing must be held prior to adoption of an interim ordinance.
- If your local government wishes to operate a municipal cannabis store, the establishment and operation of such a facility must be considered in a local ordinance.



Model Ordinance

For additional guidance regarding the creation of a cannabis related ordinance, please reference the addendum in this packet.

Additional Resources

OCM Toolkit for Local Partners

Please visit OCM webpage (mn.gov/ocm/local-governments/) for additional information, including a toolkit of resources developed specifically for local government partners. The webpage will be updated as additional information becomes available and as state regulations are adopted.

These resources are also included in the addendum of this packet.

Toolkit resources include:

- Appendix A: Model Ordinance
- Appendix B: Hemp Flower and Hemp-Derived Cannabinoid Product Checklist
- Appendix C: Enforcement Notice from the Office of Cannabis Management
- Appendix D: Notice to Unlawful Cannabis Sellers

Local Organizations

There are several organizations who also have developed resources to support local governments regarding the cannabis industry. Please feel free to contact the following for additional resources:

- League of Minnesota Cities
- Association of Minnesota Counties
- Minnesota Public Health Law Center

Appendix A: Model Ordinance

Cannabis Model Ordinance

The following model ordinance is meant to be used as a resource for cities, counties, and townships within Minnesota. The italicized text in red is meant to provide commentary and notes to jurisdictions considering using this ordinance and should be removed from any ordinance formally adopted by said jurisdiction. Certain items are not required to be included in the adopted ordinance: 'OR' and (optional) are placed throughout for areas where a jurisdiction may want to consider one or more choices on language.

Section 1	Administration
Section 2	Registration of Cannabis Business
Section 3	Requirements for a Cannabis Business (Time, Place, Manner)
Section 4	Temporary Cannabis Events
Section 5	Lower Potency Hemp Edibles
Section 6	Local Government as a Retailer
Section 7	Use of Cannabis in Public

AN ORDINANCE OF THE (CITY/COUNTY OF _____) TO REGULATE CANNABIS BUSINESSES

The (city council/town board/county board) of (city/town/county) hereby ordains:

Section 1. Administration

1.1 Findings and Purpose

(insert local authority) makes the following legislative findings:

The purpose of this ordinance is to implement the provisions of Minnesota Statutes, chapter 342, which authorizes (insert local authority) to protect the public health, safety, welfare of (insert local here) residents by regulating cannabis businesses within the legal boundaries of (insert local here).

(insert local authority) finds and concludes that the proposed provisions are appropriate and lawful land use regulations for (insert local here), that the proposed amendments will promote the community's interest in reasonable stability in zoning for now and in the future, and that the proposed provisions are in the public interest and for the public good.

1.2 Authority & Jurisdiction

A county can adopt an ordinance that applies to unincorporated areas and cities that have delegated authority to impose local zoning controls.

(insert local authority) has the authority to adopt this ordinance pursuant to:

a) Minn. Stat. 342.13(c), regarding the authority of a local unit of government to adopt reasonable restrictions of the time, place, and manner of the operation of

a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses.

b) Minn. Stat. 342.22, regarding the local registration and enforcement requirements of state-licensed cannabis retail businesses and lower-potency hemp edible retail businesses.
c) Minn. Stat. 152.0263, Subd. 5, regarding the use of cannabis in public places.
d) Minn. Stat. 462.357, regarding the authority of a local authority to adopt zoning ordinances.

Ordinance shall be applicable to the legal boundaries of (insert local here).

(Optional) (insert city here) has delegated cannabis retail registration authority to (insert county here). However, (insert city here) may adopt ordinances under Sections (2.6, 3 and 4) if (insert county here) has not adopted conflicting provisions.

1.3 Severability

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

1.4 Enforcement

The elected body of a jurisdiction can choose to designate an official to administer and enforce this ordinance.

The (insert name of local government or designated official) is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements constitutes a misdemeanor and is punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in this ordinance.

1.5 Definitions

1. Unless otherwise noted in this section, words and phrases contained in Minn. Stat. 342.01 and the rules promulgated pursuant to any of these acts, shall have the same meanings in this ordinance.
2. Cannabis Cultivation: A cannabis business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant. harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis businesses, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions approved by the office.
3. Cannabis Retail Businesses: A retail location and the retail location(s) of a mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, (and/excluding) lower-potency hemp edible retailers.

4. Cannabis Retailer: Any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.
5. Daycare: A location licensed with the Minnesota Department of Human Services to provide the care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.
6. Lower-potency Hemp Edible: As defined under Minn. Stat. 342.01 subd. 50.
7. Office of Cannabis Management: Minnesota Office of Cannabis Management, referred to as "OCM" in this ordinance.
8. Place of Public Accommodation: A business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.
9. Preliminary License Approval: OCM pre-approval for a cannabis business license for applicants who qualify under Minn. Stat. 342.17.
10. Public Place: A public park or trail, public street or sidewalk; any enclosed, indoor area used by the general public, including, but not limited to, restaurants; bars; any other food or liquor establishment; hospitals; nursing homes; auditoriums; arenas; gyms; meeting rooms; common areas of rental apartment buildings, and other places of public accommodation.
11. Residential Treatment Facility: As defined under Minn. Stat. 245.462 subd. 23.
12. Retail Registration: An approved registration issued by the (insert local here) to a state-licensed cannabis retail business.
13. School: A public school as defined under Minn. Stat. 120A.05 or a nonpublic school that must meet the reporting requirements under Minn. Stat. 120A.24.
14. State License: An approved license issued by the State of Minnesota's Office of Cannabis Management to a cannabis retail business.

Section 2. Registration of Cannabis Businesses

A city or town can delegate authority for registration to the County. A city or town can still adopt specific requirement regarding zoning, buffers, and use in public places, provided said requirements are not in conflict with an ordinance adopted under the delegated authority granted to the County.

2.1 Consent to registering of Cannabis Businesses

No individual or entity may operate a state-licensed cannabis retail business within (insert local here) without first registering with (insert local here).

Any state-licensed cannabis retail business that sells to a customer or patient without valid retail registration shall incur a civil penalty of (up to $2,000) for each violation.

Notwithstanding the foregoing provisions, the state shall not issue a license to any cannabis business to operate in Indian country, as defined in United States Code, title 18, section 1151, of a Minnesota Tribal government without the consent of the Tribal government.

2.2 Compliance Checks Prior to Retail Registration

A jurisdiction can choose to conduct a preliminary compliance check prior to issuance of retail registration.

Prior to issuance of a cannabis retail business registration, (insert local here) (shall/shall not) conduct a preliminary compliance check to ensure compliance with local ordinances.

Pursuant to Minn. Stat. 342, within 30 days of receiving a copy of a state license application from OCM, (insert local here) shall certify on a form provided by OCM whether a proposed cannabis retail business complies with local zoning ordinances and, if applicable, whether the proposed business complies with the state fire code and building code.

2.3 Registration & Application Procedure

2.3.1 Fees.

(insert local here) shall not charge an application fee.

A registration fee, as established in (insert local here)'s fee schedule, shall be charged to applicants depending on the type of retail business license applied for.

An initial retail registration fee shall not exceed $500 or half the amount of an initial state license fee under Minn. Stat. 342.11, whichever is less. The initial registration fee shall include the initial retail registration fee and the first annual renewal fee.

Any renewal retail registration fee imposed by (insert local here) shall be charged at the time of the second renewal and each subsequent renewal thereafter.

A renewal retail registration fee shall not exceed $1,000 or half the amount of a renewal state license fee under Minn. Stat. 342.11, whichever is less.

A medical combination business operating an adult-use retail location may only be charged a single registration fee, not to exceed the lesser of a single retail registration fee, defined under this section, of the adult-use retail business.

2.3.2 Application Submittal.

The (insert local here) shall issue a retail registration to a state-licensed cannabis retail business that adheres to the requirements of Minn. Stat. 342.22.

(A) An applicant for a retail registration shall fill out an application form, as provided by the (insert local here). Said form shall include, but is not limited to:
   i. Full name of the property owner and applicant;
   ii. Address, email address, and telephone number of the applicant;
   iii. The address and parcel ID for the property which the retail registration is sought;
   iv. Certification that the applicant complies with the requirements of local ordinances established pursuant to Minn. Stat. 342.13.
   v. (Insert additional standards here)

(B) The applicant shall include with the form:

i. the application fee as required in [Section 2.3.1];
ii. a copy of a valid state license or written notice of OCM license preapproval;
iii. (Insert additional standards here)

(C) Once an application is considered complete, the (insert local government designee) shall inform the applicant as such, process the application fees, and forward the application to the (insert staff/department, or elected body that will approve or deny the request) for approval or denial.

(D) The application fee shall be non-refundable once processed.

2.3.3 Application Approval

(A) *(Optional)* A state-licensed cannabis retail business application shall not be approved if the cannabis retail business would exceed the maximum number of registered cannabis retail businesses permitted under Section 2.6.

(B) A state-licensed cannabis retail business application shall not be approved or renewed if the applicant is unable to meet the requirements of this ordinance.

(C) A state-licensed cannabis retail business application that meets the requirements of this ordinance shall be approved.

2.3.4 Annual Compliance Checks.

The (insert local here) shall complete at minimum one compliance check per calendar year of every cannabis business to assess if the business meets age verification requirements, as required under [Minn. Stat. 342.22 Subd. 4(b) and Minn. Stat. 342.24] and this/these [chapter/section/ordinances].

The (insert local here) shall conduct at minimum one unannounced age verification compliance check at least once per calendar year.

Age verification compliance checks shall involve persons at least 17 years of age but under the age of 21 who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, or hemp-derived consumer products under the direct supervision of a law enforcement officer or an employee of the local unit of government.

Any failures under this section must be reported to the Office of Cannabis Management.

2.3.5 Location Change

A jurisdiction may decide to treat location changes as a new registration, or alternatively treat a location change as allowable subject to compliance with the rest of the registration process.

A state-licensed cannabis retail business shall be required to submit a new application for registration under Section 2.3.2 if it seeks to move to a new location still within the legal boundaries of (insert local here).

or

If a state-licensed cannabis retail business seeks to move to a new location still within the legal boundaries of (insert local here), it shall notify (insert local here) of the proposed location change, and submit necessary information to meet all the criteria in this paragraph.

2.4 Renewal of Registration

The (insert local here) shall renew an annual registration of a state-licensed cannabis retail business at the same time OCM renews the cannabis retail business' license.

A state-licensed cannabis retail business shall apply to renew registration on a form established by (insert local here).

A cannabis retail registration issued under this ordinance shall not be transferred.

2.4.1 Renewal Fees.

The (insert local here) may charge a renewal fee for the registration starting at the second renewal, as established in (insert local here)'s fee schedule.

2.4.2 Renewal Application.

The application for renewal of a retail registration shall include, but is not limited to:

- Items required under Section 2.3.2 of this Ordinance.
- Insert additional items here

2.5 Suspension of Registration

2.5.1 When Suspension is Warranted.

The (insert local here) may suspend a cannabis retail business's registration if it violates the ordinance of (insert local here) or poses an immediate threat to the health or safety of the public. The (insert local here) shall immediately notify the cannabis retail business in writing the grounds for the suspension.

2.5.2 Notification to OCM.

The (insert local here) shall immediately notify the OCM in writing the grounds for the suspension. OCM will provide (insert local here) and cannabis business retailer a response to the complaint within seven calendar days and perform any necessary inspections within 30 calendar days.

2.5.3 Length of Suspension.

A jurisdiction can wait for a determination from the OCM before reinstating a registration.

The suspension of a cannabis retail business registration may be for up to 30 calendar days, unless OCM suspends the license for a longer period. The business may not make sales to customers if their registration is suspended.

The (insert local here) may reinstate a registration if it determines that the violations have been resolved.

The (insert local here) shall reinstate a registration if OCM determines that the violation(s) have been resolved.

2.5.4 Civil Penalties.

Subject to Minn. Stat. 342.22, subd. 5(e) the (insert local here) may impose a civil penalty, as specified in the (insert local here)'s Fee Schedule, for registration violations, not to exceed $2,000.

2.6 Limiting of Registrations

A jurisdiction may choose to set a limit on the number of retail registrations within its boundaries. The jurisdiction may not however, limit the number of registrations to fewer than one per 12,500 residents.

(Optional) The (insert local here) shall limit the number of cannabis retail businesses to no fewer than one registration for every 12,500 residents within (insert local legal boundaries here).

(Optional) If (insert county here) has one active cannabis retail businesses registration for every 12,500 residents, the (insert local here) shall not be required to register additional state-licensed cannabis retail businesses.

(Optional) The (insert local here) shall limit the number of cannabis retail businesses to (insert number <= minimum required).

Section 3. Requirements for Cannabis Businesses

State Statutes note that jurisdictions may "adopt reasonable restrictions on the time, place, and manner of the operation of a cannabis business." A jurisdiction considering other siting requirements (such as a buffer between cannabis businesses, or a buffer from churches) should consider whether there is a basis to adopt such restrictions.

3.1 Minimum Buffer Requirements

A jurisdiction can adopt buffer requirements that prohibit the operation of a cannabis business within a certain distance of schools, daycares, residential treatment facilities, or from an attraction within a public park that is regularly used by minors, including a playground or athletic field. Buffer requirements are optional. A jurisdiction cannot adopt larger buffer requirements than the requirements here in Section 3.1. A jurisdiction should use a measuring system consistent with the rest of its ordinances, e.g. from lot line or center point of lot.

(Optional) The (insert local here) shall prohibit the operation of a cannabis business within [0-1,000] feet of a school.

(Optional) The (insert local here) shall prohibit the operation of a cannabis business within [0-500] feet of a day care.

(Optional) The (insert local here) shall prohibit the operation of a cannabis business within [0-500] feet of a residential treatment facility.

(Optional) The (insert local here) shall prohibit the operation of a cannabis business within [0-500] feet of an attraction within a public park that is regularly used by minors, including a playground or athletic field.

(Optional) The (insert local here) shall prohibit the operation of a cannabis retail business within [X] feet of another cannabis retail business.

Pursuant to Minn. Stat. 462.367 subd. 14, nothing in Section 3.1 shall prohibit an active cannabis business or a cannabis business seeking registration from continuing operation at the same site if a (school/daycare/residential treatment facility/attraction within a public park that is regularly used by minors) moves within the minimum buffer zone.

3.2 Zoning and Land Use

For jurisdictions with zoning, said jurisdiction can limit what zone(s) Cannabis businesses can operate in. As with other uses in a Zoning Ordinance, a jurisdiction can also determine if such use requires a Conditional or Interim Use permit. A jurisdiction cannot outright prohibit a cannabis business. A jurisdiction should amend their Zoning Ordinance and list what zone(s) Cannabis businesses are permitted in, and whether they are permitted, conditional, or interim uses. While each locality conducts its zoning differently, a few themes have emerged across the country. For example, cannabis manufacturing facilities are often placed in industrial zones, while cannabis retailers are typically found in commercial/retail zones. Cannabis retail facilities align with general retail establishments and are prohibited from allowing consumption or use onsite and are also required to have plans to prevent the visibility of cannabis and hemp-derived products to individuals outside the retail location. Cannabis businesses should be zoned under existing zoning ordinances in accordance with the license type or endorsed activities held by the cannabis business.

3.2.1. Cultivation.

Cannabis businesses licensed or endorsed for cultivation are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

3.2.1. Cannabis Manufacturer.

Cannabis businesses licensed or endorsed for cannabis manufacturer are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

3.2.1. Hemp Manufacturer.

Businesses licensed or endorsed for low-potency hemp edible manufacturers permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

3.2.1. Wholesale.

Cannabis businesses licensed or endorsed for wholesale are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

3.2.1. Cannabis Retail.

Cannabis businesses licensed or endorsed for cannabis retail are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

3.2.1. Cannabis Transportation.

Cannabis businesses licensed or endorsed for transportation are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

3.2.1. Cannabis Delivery.

Cannabis businesses licensed or endorsed for delivery are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

3.3 Hours of Operation

A jurisdiction may adopt an ordinance limiting hours of operation to the hours between 10 a.m. and 9 p.m., seven days a week. State statute prohibits the sale of cannabis between 2 a.m. and 8 a.m., Monday through Saturday, and between 2 a.m. and 10 a.m. on Sundays.

(Optional) Cannabis businesses are limited to retail sale of cannabis, cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products between the hours of (insert time here) and (insert time here).

3.4 (Optional) Advertising

Cannabis businesses are permitted to erect up to two fixed signs on the exterior of the building or property of the business, unless otherwise limited by (insert local here)'s sign ordinances.

Section 4. Temporary Cannabis Events

Any individual or business seeking to obtain a cannabis event license must provide OCM information about the time, location, layout, number of business participants, and hours of operation. A cannabis event organizer must receive local approval, including obtaining any necessary permits or licenses issued by a local unit of government before holding a cannabis event.

4.1 License or Permit Required for Temporary Cannabis Events

4.1.1 License Required.

A cannabis event organizer license entitles the license holder to organize a temporary cannabis event lasting no more than four days. A jurisdiction should determine what type of approval is consistent with their existing ordinances for events.

A license or permit is required to be issued and approved by (insert local here) prior to holding a Temporary Cannabis Event.

4.1.2 Registration & Application Procedure

A registration fee, as established in (insert local here)'s fee schedule, shall be charged to applicants for Temporary Cannabis Events.

4.1.3 Application Submittal & Review.

The (insert local here) shall require an application for Temporary Cannabis Events.

(A) An applicant for a retail registration shall fill out an application form, as provided by the (insert local here). Said form shall include, but is not limited to:
   i. Full name of the property owner and applicant;
   ii. Address, email address, and telephone number of the applicant;
   iii. (Insert additional standards here)

(B) The applicant shall include with the form:
   i. the application fee as required in (Section 4.1.2);
   ii. a copy of the OCM cannabis event license application, submitted pursuant to 342.39 subd. 2.

The application shall be submitted to the (insert local authority), or other designee for review. If the designee determines that a submitted application is incomplete, they shall return the application to the applicant with the notice of deficiencies.

(C) Once an application is considered complete, the designee shall inform the applicant as such, process the application fees, and forward the application to the (insert staff/department, or elected body that will approve or deny the request) for approval or denial.

(D) The application fee shall be non-refundable once processed.

(E) The application for a license for a Temporary Cannabis Event shall meet the following standards:

A jurisdiction may establish standards for Temporary cannabis events which the event organizer must meet, including restricting or prohibiting any on-site consumption. If there are public health, safety, or welfare concerns associated with a proposed cannabis event, a jurisdiction would presumably be authorized to deny approval of that event.

- Insert standards here

(G) A request for a Temporary Cannabis Event that meets the requirements of this Section shall be approved.

(H) A request for a Temporary Cannabis Event that does not meet the requirements of this Section shall be denied. The (insert city/town/county) shall notify the applicant of the standards not met and basis for denial.

(Optional) Temporary cannabis events shall only be held at (insert local place).

(Optional) Temporary cannabis events shall only be held between the hours of (insert start time) and (insert stop time).

Section 5. (Optional) Lower-Potency Hemp Edibles

A jurisdiction can establish different standards or requirements regarding Low-Potency Edibles. A jurisdiction can consider including the following section and subsections in their cannabis ordinance.

5.1 Sale of Low-Potency Hemp Edibles

The sale of Low-Potency Edibles is permitted, subject to the conditions within this Section.

5.2 Zoning Districts

If sales are permitted, a jurisdiction can limit what zone(s) the sales of Low-Potency Edibles can take place in. A jurisdiction can also determine if such activity requires a Conditional or Interim Use permit.

Low-Potency Edibles businesses are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

5.3 (Optional) Additional Standards

5.3.1 Sales within Municipal Liquor Store.

A jurisdiction that already operates a Municipal Liquor Store may sell Low-Potency Edibles within the same store.

The sale of Low-Potency Edibles is permitted in a Municipal Liquor Store.

5.3.2 Age Requirements.

A jurisdiction is able to restrict the sale of Low-Potency Edibles to locations such as bars.

The sale of Low-Potency Edibles is permitted only in places that admit persons 21 years of age or older.

5.3.3 Beverages.

The sale of Low-Potency Hemp Beverages is permitted in places that meet requirements of this Section.

5.3.4 Storage of Product.

A jurisdiction is able to set requirements on storage and sales of Low-Potency Edibles.

Low-Potency Edibles shall be sold behind a counter, and stored in a locked case.

Section 6. (Optional) Local Government as a Cannabis Retailer

(insert local here) may establish, own, and operate one municipal cannabis retail business subject to the restrictions in this chapter.

The municipal cannabis retail store shall not be included in any limitation of the number of registered cannabis retail businesses under Section 2.6.

(insert local here) shall be subject to all same rental license requirements and procedures applicable to all other applicants.

Section 7 Use in Public Places

No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place or a place of public accommodation unless the premises is an establishment or an event licensed to permit on-site consumption of adult-use.

Appendix B: Hemp Flower and Hemp-Derived Cannabinoid Product Checklist

MINNESOTA

Office of Cannabis Management
Department of Health

Hemp Flower and Hemp-Derived Cannabinoid Product Checklist

Minnesota Statute 18K.02, Definitions
Minnesota Statute 152.01, Subdivision 9
Minnesota Statute 151.72, Sale of Certain Cannabinoid Products
Minnesota Statute 152.0264, Cannabis Sale Crimes
Minnesota Statute 342.09, Personal Adult Use of Cannabis

Question	Yes	No	Comments	Additional Information
Business License and Registration Compliance				
Is the business registered with the Minnesota Department of Health?				All businesses selling hemp-derived cannabinoid products must be registered. See Hemp-Derived Cannabinoid Products (www.health.state.mn.us/people/cannabis/edibles/index.html)
If the business offers on-site consumption, do they have a liquor license?				Local authorities issue on-site consumption licenses. These are required for all businesses permitting on-site consumption of THC.
Product Compliance – All Products				
Does the business ensure that all sales are made to persons 21 years old or older?				Only persons 21 years of age or older may purchase hemp-derived cannabinoid products, with the exception of topicals. These products may be sold to anyone.
Does the business have all edible cannabinoid products, except beverages, behind the counter or in a locked cabinet?				Businesses must ensure all edible cannabinoid products are secure and inaccessible to customers.

Question	Yes	No	Comments	Additional Information
Only delta-8 and delta-9 are allowed for human consumption. Does the business sell edibles or beverages with any other intoxicating cannabinoids?				MDH has identified products containing many different intoxicating cannabinoids, such as HHC, THC-O, THC-P, PHC, delta-10, delta-11, delta-8p, delta-9p, etc. The product must contain only delta-8 and/or delta-9.
Does the business sell any edible products that are similar to a product marketed to or consumed by children?				Edible products that appear similar to candy or snacks marketed toward or consumed by children are not allowed.
Does the label on the edible or beverage state “Keep out of reach of children”?				All products must include the warning label “Keep out of reach of children.”
Is the manufacturer’s name, address, website, and contact phone number included on the label or provided through a QR code?				If not, the product is not in compliance.
Does the QR code on the product bring the user to a Certificate of Analysis on the website, which includes the name of the independent testing laboratory, cannabinoid profile, and product batch number?				All products must be tested by batch in an independent, accredited laboratory. The results must include the cannabinoid profile.
Does the label on the product indicate the cannabinoids by serving and in total?				The label must indicate the potency by individual serving as well as in total.

Question	Yes	No	Comments	Additional Information
Does the label on the product make any claim the product offers any kind of health benefit?				Health claims are not permitted on hemp or cannabis products unless approved by the FDA. At this time, there is not an approved statement.
Does the label on the product state that the product does not claim to diagnose, treat, cure or prevent any disease?				The manufacturer cannot claim the product will provide any health benefit unless the product has been formally approved by the FDA.
Does the business sell CBD (or other forms of cannabidiol) in the form of a softgel, tablet, or tincture?				Non-intoxicating cannabinoids may only be sold in the form of an edible, beverage, or topical. Therefore, softgels and tablets cannot be sold. Tinctures must be labeled as either an edible or beverage and comply with the edible or beverage requirements.
Product Compliance – Edibles				
Does the edible product contain more than 5 mg delta-8 and/or delta-9 per serving?				Edibles may not exceed 5 mg delta-8 and/or delta-9 per serving.
Does the edible product package/container contain more than 50 mg total THC (delta-8 and/or delta-9)?				Edibles may not exceed 50 mg total delta-8 or delta-9 per package. The edible cannot contain any other form of THC or intoxicating cannabinoid.
Are all the edible product's servings clearly marked, wrapped, or scored on the product?				Edible product servings must be clearly distinguished on the product. Bulk products that require the consumer to measure are not allowed.

Question	Yes	No	Comments	Additional Information
Does the business sell any edible products in the shape of bears, worms, fruits, rings, ribbons?				Edibles in shapes that appeal to children are not allowed.
Is the edible product in a child-proof, tamper-evident, opaque container?				All edibles must be in a container that is child-resistant and tamper evident. If the container is clear, the business must place the edible into an opaque bag at the point of sale. Clear bags are not allowed.
Product Compliance - Beverages				
Does the beverage product contain more than 5 mg delta-8 or delta-9 per serving?				Beverages may not exceed 5 mg delta-8 and/or delta-9 per serving.
Does the beverage product contain more than 2 servings?				Beverages cannot exceed two servings, regardless of the THC potency.
Is the beverage product in an opaque container?				If the beverage is in a clear container, the business must place the beverage in an opaque bag at the point of sale.
Product Compliance – Smokables (non-flower)				
Does the business sell vapes, pre-rolls, dabs, or other smokable products which contain more than 0.3% THC?				A product's certificate of analysis will show the concentration of THC the product contains. The certificate typically is found through the QR code on the product package. In MDH's experience, most vapes contain 50% - 90%+ THC. Pre-rolls may consist of raw hemp flower. These products are not regulated by 151.72. However, if a pre-roll is labeled as "infused" or "coated" have additional cannabinoids applied to the material, of which the product typically exceeds the 0.3% THC limit.

Question	Yes	No	Comments	Additional Information
Does the business sell vapes, pre-rolls, dabs, or other smokeable products that contain other intoxicating cannabinoids, such as HHC?				MN Statutes do not allow any cannabinoid, other than delta-8 or delta-9, to be sold if the cannabinoid is intended to alter the structure or function of the body. HHC is a cannabinoid known to have potency greater than THC.
Does the business sell vapes, pre-rolls, dabs, or other smokable products which contain CBD?				Non-intoxicating cannabinoids cannot be smoked, vaped, or inhaled.
Product Compliance – Flower				
Does the business sell raw hemp flower?				Raw hemp flower must contain 0.3% or less of delta-9 on a dry weight basis. Products exceeding 0.3% delta-9 dry weight are marijuana, and are illegal for sale. THC-A is the non psychoactive precursor to delta-9. Once heated THC-A converts to delta-9. In that process some amount of THC-A is lost. To determine whether, once heated, the hemp flower will exceed the allowable 0.3% of delta-9, one can use a decarboxylation formula which takes into account the conversion of THC-A into delta-9. That formula is as follows: Total THC = (0.877 X THC-A) + d-9 THC) Raw flower must include a certificate of analysis to show testing below 0.3% delta-9. • A lack of a certificate of analysis would constitute an illegal sale.

Question	Yes	No	Comments	Additional Information
				• A certificate of analysis showing that under the decarboxylation formula that delta-9 would exceed the 0.3% threshold would also indicate the flower is cannabis and not hemp and therefore being sold illegally.
Product Compliance – On-Site Consumption				
If the business offers on-site consumption, do they serve the edible or beverage in its original packaging?				The business may not pour out or remove an edible from its original packaging.
If the business offers on-site consumption, do they mix a cannabis-infused beverage with alcohol?				The business may not mix cannabis-infused products with alcohol.
If the business offers on-site consumption, do they permit customers to remove from the premises products which have been removed from their original packaging?				Products which have been removed from their original packaging cannot be removed from the premises by the customer.

NOTE: If a person suspects that a hemp-derived cannabinoid product is being sold in violation of Minnesota law, they can use the complaint form at Submitting Hemp-Derived Cannabinoid Product Complaints (www.health.state.mn.us/people/cannabis/edibles/complaints.html).

Appendix C: Enforcement Notice from the Office of Cannabis Management

MINNESOTA
OFFICE OF CANNABIS MANAGEMENT

Enforcement Notice from the Office of Cannabis Management

Dear Registered Hemp Derived Cannabinoid Business:

The Office of Cannabis Management (OCM), established in 2023, is charged with developing and implementing the operational and regulatory systems to oversee the cannabis industry in Minnesota as provided in Minnesota Statutes Chapter 342.

When Minnesota legalized the sale of adult-use of cannabis flower, cannabis products, and lower-potency hemp edibles/ hemp-derived consumer products, the Minnesota Legislature included statutory provisions, Minnesota Statutes, chapter 152.0264, making the sale of cannabis illegal until a business is licensed by OCM. The Office of Cannabis Management has not yet issued licenses for the cultivation, manufacture, wholesale, transportation or retail sale of cannabis, therefore any retail sales of cannabis products, including cannabis flower, are illegal.

The Office of Cannabis Management has received complaints of retailers selling cannabis flower under the label of hemp flower. Under an agreement between The Minnesota Department of Health (MDH) and OCM, inspectors from MDH will begin to examine any flower products being sold during their regular inspections to determine whether they are indeed hemp flower or cannabis flower.

In distinguishing between hemp and cannabis flower, OCM, consistent with federal rules and regulations related to hemp under 7 CFR 990.1, will consider the total concentration of THC post- decarboxylation, which is the process by which THC-A is converted into Delta-9 to produce an intoxicating effect. The examination of raw flower products will include reviewing the certificate of analysis for compliance in several areas, including:

Compliance with the requirement that raw flower listed for sale includes a Certificate of Analysis (COA). Products for sale without a COA will constitute an illegal sale.

A COA that affirms concentrations of 0.3% or less of Delta-9 on a dry weight basis. Products exceeding 0.3% Delta-9 dry weight are considered marijuana and are therefore illegal to sell.

A COA that confirms that the total levels of Delta-9 and THC-A after the decarboxylation process do not exceed 0.3%. A COA that indicates the raw flower will exceed 0.3 percent Delta-9 post-decarboxylation, or a subsequent test conducted by an independent laboratory utilized by OCM that confirms Delta-9 in excess of 0.3 percent will be considered illegal.

Minnesota Statutes, Chapter 342 governs Minnesota's cannabis market, and empowers OCM to ensure regulatory compliance. Minnesota Statutes, chapter 342.09, subdivision 4 prohibits the retail sale of cannabis flower and cannabis products "without a license issued under this chapter that authorizes the sale."

To date, the Office of Cannabis Management has not issued any cannabis licenses, applications for licenses are expected to be available in the first half of 2025. As such, selling cannabis is a clear violation of law. Be aware that under Minnesota Statutes, 342.09, subdivision 6, OCM may assess fines in excess of a $1 million for violations of this law. Likewise, under Minnesota Statutes, chapter 342.19, OCM is empowered to embargo any product that it has "probable cause to believe . . . is being distributed in violation of this chapter or rules adopted under this chapter[.]" Furthermore, violations of law may be considered in future licensing decisions made by OCM.

As inspectors enter the field, we encourage you to review the products you are currently selling to ensure they fall within the thresholds outlined above. If you have any questions related to the products you are selling, please send an email to cannabis.info@state.mn.us.

Thank you for your attention to this matter.



Charlene Briner
Interim Director
Office of Cannabis Management

Appendix D: Notice to Unlawful Cannabis Sellers

MINNESOTA
OFFICE OF CANNABIS MANAGEMENT

Notice to Unlawful Cannabis Sellers

This notice is to inform you that your current course of action may run afoul of Minnesota law, and continuing this course of action may result in civil actions and potential criminal prosecution. To avoid such outcomes, you should immediately cease and desist any plans to engage in the unlicensed sale of cannabis and cannabis products.

Minnesota Statutes, Chapter 342 (www.revisor.mn.gov/statutes/cite/342) governs Minnesota's cannabis market, and empowers OCM to ensure regulatory compliance. Minnesota Statutes, chapter 342.09, subdivision 4 (www.revisor.mn.gov/statutes/cite/342.09#stat.342.09.4) prohibits the retail sale of cannabis flower and cannabis products "without a license issued under this chapter that authorizes the sale." To date the Office of Cannabis Management has not issued any retail, or other, cannabis licenses. As such, your plan to sell cannabis in a retail setting at this date would be in flagrant violation of the law. Be aware that under Minnesota Statutes, 342.09, subdivision 6 (www.revisor.mn.gov/statutes/cite/342.09#stat.342.09.6), OCM may assess fines in excess of a $1,000,000 for violations of this law.

Likewise, under Minnesota Statutes, chapter 342.19 (www.revisor.mn.gov/statutes/cite/342.19), OCM is empowered to embargo any product that it has "probable cause to believe . . . is being distributed in violation of this chapter or rules adopted under this chapter[.]" It is believed that products attempted to be sold at your retail location might be distributed in violation of the law, and would therefore be subject to embargo by OCM. Under Minnesota Statutes, chapter 342.19, subd. 2 (www.revisor.mn.gov/statutes/cite/342.19#stat.342.19.2), once embargoed OCM "shall release the cannabis plant, cannabis flower, cannabis product, artificially derived cannabinoid, lower-potency hemp edible, or hemp-derived consumer product when this chapter and rules adopted under this chapter have been complied with or the item is found not to be in violation of this chapter or rules adopted under this chapter."

While Minnesota has legalized the sale of adult-use of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products, the legislature did add new statutory provisions, Minnesota Statutes, chapter 152.0264 (www.revisor.mn.gov/statutes/cite/152.0264), making illegal the unlawful sale of cannabis. As there are not yet any licenses issued by OCM for the cultivation, manufacture, wholesale, transportation, or retail of cannabis, any sales of cannabis products in excess of the limits in 152.0264 is illegal.

If you are only planning to sell cannabinoid products that are derived from hemp, you should ensure that the sale of those products is consistent with Minnesota Statutes, chapter 151.72 (www.revisor.mn.gov/statutes/cite/151.72), including but not limited to the requirement that your business be registered with the Commissioner of Health, and that all products are in compliance with the relevant statutes.

Finally, in addition to the state laws outlined above, please be aware that any retail location must be in compliance with local government ordinances and zoning requirements.

OCM takes seriously its charge to enforce Minnesota Statutes, Chapter 342, and its responsibility to ensure a safe and legal cannabis market. In order to avoid the above-described actions, all attempts to open a cannabis retail dispensary in Minnesota without the appropriate license should be ceased.

CITY OF EMPIRE
MINNESOTA

Regulating Cannabis

City Council Meeting
September 24, 2024

Background

- 2023 – State legalizes and decriminalizes sale, possession, use, and growth of cannabis
- 2024 – State adopts updates to the 2023 legislation
- Minnesota Statutes Chapter 342 establishes rules and policies for regulation of the cannabis industry
- Office of Cannabis Management (OCM) created to oversee implementation and regulation

Definitions

Cannabis

- Plant with more than 0.3 percent delta-9 tetrahydrocannabinol (THC) concentration.

Cannabinoids

- Any edible cannabinoid or nonedible cannabinoid product authorized for sale in 2022.
  - Once the new laws are fully in effect in 2025, this category of product will be incorporated into “lower potency hemp products”

Cannabis Business

- Retail, cultivation, manufacture, transport, testing facility, event, and delivery service

Definitions

Hemp

- Plant with less than 0.3 percent delta-9 tetrahydrocannabinol (THC) concentration

Lower Potency Hemp Edible

- Products derived from hemp and contain no more than 5 milligrams of delta-9 tetrahydrocannabinol(THC) concentration intended to be eaten or consumed as a beverage

Hemp Business

- Lower-potency hemp edible manufacturer or lower-potency hemp edible retailer.
- Does not include a person or entity license by MN Dept. of Agriculture to grow or process industrial hemp.

License Types & Empire Zoning Regulations

Cannabis Microbusiness

- Cultivate and manufacture cannabis products
  - Cultivation limited to 5,000 sf indoors and ½ acre outdoors
- Package products for sale
- May operate a single retail location
- May permit onsite consumption
- Perform other actions approved by OCM

Corresponding Land Use	Allowed Zoning Districts
Agricultural Service Establishments	AG
Agricultural Uses	AG ME
Retail Sales	NC HC
Off-Sale Liquor Sales	NC HC
Agricultural Production and Sales	LI
Greenhouses and Nurseries	LI
Production, Assembly and Processing Facilities	LI

License Types & Empire Zoning Regulations

Cannabis Mezzobusiness

- Cultivate and manufacture cannabis products
  - Cultivation limited to 15,000 sf indoors and 1 acre outdoors
- Package products for sale
- May operate up to 3 retail locations
- Perform other actions approved by OCM

Corresponding Land Use	Allowed Zoning Districts
Agricultural Service Establishments	AG
Agricultural Uses	AG ME
Retail Sales	NC HC
Off-Sale Liquor Sales	NC HC
Agricultural Production and Sales	LI
Greenhouses and Nurseries	LI
Production, Assembly and Processing Facilities	LI

License Types & Empire Zoning Regulations

Cannabis Cultivator

- Cultivate cannabis products
  - Up to 30,000 sf of plant canopy at indoor facility
  - Up to 2 acres of mature flowering plants at outdoor location
- Package products for sale
- Perform other actions approved by OCM

Corresponding Land Use	Allowed Zoning Districts
Agricultural Service Establishments	AG
Agricultural Uses	AG ME
Agricultural Production and Sales	LI
Greenhouses and Nurseries	LI
Production, Assembly and Processing Facilities	LI

License Types & Empire Zoning Regulations

Cannabis Manufacturer

- Manufacture cannabis and hemp products
- Package products for sale
- Perform other actions approved by OCM

Corresponding Land Use	Allowed Zoning Districts
Production, Assembly and Processing Facilities	LI

License Types & Empire Zoning Regulations

Cannabis Retailer

- Sell to customer and patients:
  - Immature cannabis plants and seedlings
  - Cannabis products
  - Hemp products
  - Other products authorized by law
- Perform other actions approved by OCM

Corresponding Land Use	Allowed Zoning Districts
Retail Sales	NC HC
Off-Sale Liquor Sales	NC HC

License Types & Empire Zoning Regulations

Cannabis Wholesaler

- Purchase and/or sell:
  - Immature cannabis plants and seedlings
  - Cannabis
  - Cannabis products
  - Hemp products
- Import hemp-derived consumer products and lower-potency hemp edibles
- Perform other actions approved by OCM

Corresponding Land Use	Allowed Zoning Districts
Office/Warehouses	LI
Distribution Facilities	LI
Agricultural Production and Sales	LI

License Types & Empire Zoning Regulations

Cannabis Transporter

- Transport to licensed cannabis businesses:
  - Immature cannabis plants and seedlings
  - Cannabis
  - Cannabis products
  - Hemp products
- Perform other actions approved by OCM

Corresponding Land Use	Allowed Zoning Districts
Fleet Vehicle Parking or Storage (associated with permitted use)	HC LI
Distribution Facilities	LI

License Types & Empire Zoning Regulations

Cannabis Testing Facility

- Obtain and test immature cannabis plants and seedlings, cannabis, cannabis products, and hemp products from a licensed cannabis business
- Perform other actions approved by OCM

Corresponding Land Use	Allowed Zoning Districts
Offices and Medical Facilities	NC
Office/Warehouse	LI

License Types & Empire Zoning Regulations

Cannabis Event Organizer

- Organize a temporary cannabis event lasting no more than four days.
- Perform other actions approved by OCM

Corresponding Land Use	Allowed Zoning Districts
Offices and Medical Facilities	NC
Office-Showrooms	LI

License Types & Empire Zoning Regulations

Cannabis Delivery Service

- Purchase cannabis, cannabis products, and hemp products from retailers or cannabis business with retail endorsement for transport and delivery to customers
- Perform other actions approved by OCM

Corresponding Land Use	Allowed Zoning Districts
Fleet Vehicle Parking or Storage (associated with permitted use)	HC LI
Distribution Facilities	LI

License Types & Empire Zoning Regulations

Lower-Potency Hemp Edible Manufacturer

- Manufacture and package lower-potency hemp edibles for consumer sale
- Sell hemp concentrate and lower-potency hemp edibles to other cannabis businesses
- Perform other actions approved by OCM

Corresponding Land Use	Allowed Zoning Districts
Production, Assembly and Processing Facilities	LI

License Types & Empire Zoning Regulations

Lower-Potency Hemp Edible Retailer

- Sell lower-potency hemp edibles to customers over 21 years of age
- Perform other actions approved by OCM

Corresponding Land Use	Allowed Zoning Districts
Retail Sales	NC HC
Off-Sale Liquor Sales	NC HC

License Types & Empire Zoning Regulations

Cannabis Research

- An institution of higher education and any entity working in partnership with an institution of higher education may apply for a cannabis microbusiness license to conduct cannabis crop research.
- Cultivate and manufacture cannabis products
- Perform other actions approved by OCM

Corresponding Land Use	Allowed Zoning Districts
Agricultural Service Establishments	AG
Agricultural Uses	AG ME
Greenhouses and Nurseries	LI

License Types & Empire Zoning Regulations

Industrial Hemp Development (MN Statutes 18K)

- Industrial hemp is an agricultural crop in this state.
- May possess, transport, process, sell, or buy industrial hemp that is grown pursuant to this chapter or lawfully grown in another state.
- May sell hemp plant parts and propagules and concentrate to a cannabis business or hemp business licensed under chapter 342.

Corresponding Land Use	Allowed Zoning Districts
Agricultural Uses	AG ME

Authority of the City

The City MAY NOT:

- Prohibit licensed cannabis businesses
- License cannabis businesses

The City MAY:

- Determine which zoning districts may allow specific uses
- Establish a minimum distance from schools, residential treatment facilities, and playgrounds/ball fields located in parks
- Establish hours of operation
- Regulate signage
- Regulate noise levels
- Regulate odor
- Register businesses within the City
- Prohibit use of cannabis in public parks and public places

General Zoning Questions to Consider

1. Where should the sale of cannabis and hemp products be permitted in the City of Empire?
2. Where should the growth, production, and manufacturing of cannabis and hemp products be permitted in the City of Empire?
3. Should licensed cannabis and hemp businesses be a permitted use or a conditional use?
   - This could depend on the use and/or the district

Specific Zoning Questions to Consider

1. Should Cannabis and Hemp Businesses be restricted from operating close to schools?
   a. Within 1000 feet?
   b. Within 500 feet?
   c. No
2. Should Cannabis and Hemp Businesses be restricted from operating within 500 feet from:
   a. Day Cares
   b. Residential Treatment Facilities
   c. Attractions in parks (like playgrounds/baseball fields)
3. Should Cannabis and Hemp Business operations be regulated more than other types of retail, plant growth, and manufacturing operations are currently regulated?
4. Does the City want to regulate Cannabis and Hemp the same or differently that it regulates liquor and tobacco?

Number of Retail Operations

Legislation requires at least one retail location per 12,500 residents be permitted

- Empire could limit Cannabis Retail to a single license
- The city may prohibit the operation of a cannabis business within 1000 feet of a school or 500 feet of a daycare, residential facility, public park, playground, or athletic field.

Questions:

- Should the City limit the number of retail licenses?
- Should the City use these distance restrictions?

Registration/Compliance

OCM is or will be the exclusive licensing entity.

- The City is limited to registration only.
- Registration will provide the City with a record of Hemp/Cannabis Retail locations and ownership
- If the City requires registration, the City is mandated to undertake compliance obligations

Questions:

1. Should the City undertake registration?
2. If so, what should the registration fee be?
   a. This will be determined by estimated City costs for administration and compliance
3. Should the City delegate registration to Dakota County?
   a. In this case, the County is obligated to undertake compliance obligations

Planning Commission Comments/Questions

1. Regulations should be as conservative or restrictive as possible.
2. No cannabis retail in Neighborhood Commercial district; only allow in Highway Commercial with maximum separation allowed.
3. Limit hours of operations to the maximum extent allowed in the statute.
4. Require registration with City for now unless the County decides to do it. At that time, the City can reconsider the ordinance.
5. More information is needed on how the statute addresses security, fencing, and lighting for Cultivation, Manufacturers and Retailers- what's required? The City may want to have its own regulations.
6. How and what can Cannabis events be regulated?
7. More info on Cannabis Mezzobusinesses- is it the use that follows the zoning, or do we have to allow manufacturing and retail at same locations? And does this situation apply to other license types?
8. Prohibit on-site consumption where possible, including parks and public property, and events.
9. Can the City impose additional setbacks from both rights-of-way and property lines in the AG District?
10. Should cannabis uses in the AG district require an IUP?

Recommendations

Zoning Ordinance Update

- Add definitions specific to cannabis and hemp operations
- Define specific cannabis and hemp uses
- Determine where these uses should be permitted and how (by right or CUP)
- Determine performance standards (distances, signs, noise, etc.)

Specific Cannabis/Hemp Ordinance

- Outline registration process (if needed)
- Establish fees related to registration
- Cross-reference Zoning Ordinance

Timeline for action

Date	Action
September 17th	Planning Commission Discussion
September 24th	City Council Discussion
October 1st and 15th	Planning Commission Discussion on Draft Ordinances
November 19th	Planning Commission Public Hearing on Zoning Ordinance Amendments
November 26th	City Council Review/Adoption of Zoning Ordinance Amendments

Thank You

Questions?



Jenni Faulkner

Senior Planner

MEMORANDUM

Date:	September 24, 2024
To:	Empire City Council
From:	Jenni Faulkner, Consulting Planner
RE:	4. Draft Letter on Met Council 2050 Land Use Policy

Attachment(s): CC Memo Met Council Draft.pdf

Date: September 24, 2024

To: City Council

From: Jenni Faulkner, Consulting Planner

Re: 2050 Comp Plan Draft Letter

Introduction

The Met Council has begun their process of rolling out new policies and draft population projections for the next round of comp plans. They are due December 2028 and will reflect the planning period from present to 2050. By statute, the Planning Commission is responsible for preparing the city's comprehensive plans and enforcing it (primarily through zoning controls).

Discussion

Attached is a letter with comments based a review of the Met Council draft Land Use Policy for 2050 and the previous discussion from the Planning Commission from August 6, 2024 and September 18, 2024. There are also several other Policy Plans out for public comments at this time. The Met Council intends to hold a public meeting at the end of the month and then plans to adopt the final policy plans in early 2025.

Also, related to the future development of the NW area, staff have been in regular discussion with Met Council staff on sanitary sewer availability and density and timing. The main questions are:

1. Is there capacity in the interceptor line along Biscayne to accommodate the future development of 2500 acres in Empire? (We believe so, but we are seeking verification from Met Council before proceeding with the environmental review).
2. Current density is 3 units/acre and with the 2050 Comp Plan Update, the minimum for Empire's developing areas will be 4 units per acre. The current plan will be in place until the 2050 Comp Plan is adopted. The question is, is there will be a lookback period? And if there is an impact to Empire to allow 3 units/acre now and then move to 4 units/acre after the 2050 Comp Plan is adopted? This concern is included in the comment letter.

The Council may find these Met Council links helpful or of interest:

Land Use | Engage Twin Cities (metrocouncil.org)

Imagine 2050 - Metropolitan Council (metrocouncil.org)

Attachments:
Draft Letter

September 27, 2024

Metropolitan Council
Attn: LisaBeth Barajas,
Executive Director, Community Development Division
390 Robert St. N.
St. Paul, MN 55101

RE: Land Use Policy Plan

Dear Ms. Barajas,

Thank you for the opportunity to review and provide comments on the Imagine 2050 Draft Land Use Policy Plan. We respectfully submit the following comments:

1. Community Designation Maps (Agricultural): Please update the Community Designation Map references to Empire Township. Empire became a city in 2023.

2. Guiding Growth and Development section discusses "compact development". It would be helpful if there was a common definition of "compact development". While we think we understand what this means, it could mean different things to different community types, so having your frame of refence would provide clarity to assist with managing expectations.

3. Objective 1, Policy P2, Action 2: There is discussion about a look-back period and past performance meeting density expectations. What is the look-back period? Is it 5 years? 10 years? Entire planning cycle?

   Also, will such a lookback period apply at anytime or just when reviewing MUSA extensions. There was and has been discussions from Met Council staff about an ongoing look-back period. We have asked for any not received clarity on this.

4. Objective 1, Policy 2, Action 3:

   Density and Community Types. Empire is Suburban Edge in areas served by public utilities and Agricultural in all other rural areas. Densities are increasing from 3 to 4 units

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per acre from the 2040 planning period. And density remains the same at 1 per 40 acres in the agricultural areas. There is limited opportunity to have large lot rural development in the proposed plan. With a Diversified Rural or Rural Residential, the density is 1 per 10 acres. A large part of the appeal for residents to move to Empire is because of the rural character. Not having large lot rural development (1 per 3-5 acres) will likely result in leapfrog of development to outlying counties and it will significantly drive up the cost of what development rights do remain on agricultural preserved parcels. It seems there is a better way to plan for shorter term large lot development that could allow for future division and development when utilities are available. This could allow for a variety of housing types that people want to live in, in community types they want to live in.

iii. The Met Council should consider excluding privately held open space from density calculations. Private open space (accessible to only property owners of a Homeowner's Association for example) helps cities to have more open space, which helps the environment, and reduces the maintenance costs of cities for those private parks and open spaces.

v. What is meant by "practical feasibility" of demand? How will this be evaluated? By Whom? And under what criteria?

vi. What is meant by performance-based flexibility when it comes to density? What are the performance standards? And what type or degree of flexibility may be granted and when? Cities have tools for flexibility written into ordinances. Similarly, the Met Council should be clear on what flexibility may be granted, what the criteria are, and what the process will be. This flexibility should be reasonable and designed to meet the objectives of the Met Council and the local communities.

5. Objective 4, Policy P2, A2: Will the natural system corridors be identified? What requirements are expected for cities to incorporate measures for conservation easements and wild-life friendly development standards?

6. Objective 5, Policy P1, A2: The expectation for a local government to educate residents about any particular housing type is not appropriate. (The provision is stating that local government should educate residents about manufactured and modular housing). How does the Met Council intend to enforce this policy? A city should not be preferring any one type of housing over another or trying to influence a consumer's personal decision. While zoning can allow for a variety of housing types, to proactively educate residents on private and personal decision seems out of line and not a good use of taxpayer resources.

7. Objective 5, Policy P1, A5: What is meant by "locally-led" development initiatives? Who is leading this? And how are "gentrifying neighborhoods" defined?

8. Objective 7, Policy P1, A6/A7: Local governments are required to provide greenhouse gas emissions inventory and protections as well as reductions/sequester. What resources (financial or technical) will the Metropolitan Council be providing to assist with this mandate? What criteria are required in the 2050 Comp Plans for local government? Is there a specific target or goal that must be met and over what period of time? It seems counterintuitive to increase density while trying to decrease greenhouse gas emissions.

9. It would be helpful to have a document/table summarizing the changes from 2040 to 2050 for each policy to be more transparent in what is changing. It would also be more efficient to focus in on key items as there is much to take in with all the Policy Plans. It takes a lot of resources to review and provide meaningful comments on these policy plans. Anything to assist with efficiencies and prioritizing concerns would be helpful to all.

10. What will be the process for Comp Plan Amendments in the future? There has been some frustrations with submittals being declared incomplete by staff, when submittals are complete, but perhaps contain unagreeable information. It is up to the policy makers, not staff to determine if they are agreeable to an application or not. Or requirements to update multiple sections of a Comp Plan that have no relevancy on the outcome of a project. When we review our planning applications, we accept them as complete even if the information is not agreeable or correct and work with the applicant to limit the bureaucracy of government and get a resolution or decision within a very reasonable amount of time. ***The longer projects are held up in government process the more expensive they become*** directly and indirectly. Cities are being held to high standards to assist with development efficiencies and affordability and the Met Council can also do their part by improving efficiencies on the Comp Plan Amendment Process.

With respect to the Draft 2050 Housing Policy Plan, we respectfully submit the following comments:

1. Overall there are several new policies that will add more review and analysis and policies at the local level such as accessible housing goals, use of city tools for more home ownership, and modification to allocation of affordable housing need for advancement of equity. With all of the proposed new policies, it's likely smaller communities will not have the resources to provide the data or meet the requirements. What resources will the Met Council be providing to local jurisdictions to assist with producing a complaint Housing Plan or Housing Chapter of the 2050 local comp Plan? It feels like only larger entities with an HRA or EDA and housing staff will be able to easily comply.

2. The Draft plan notes that there will be credits up to 15% towards housing goal if cities do certain things. Those certain things have not been provided. Is the 15% credit proportional to what those special activities are? Who and when will the particulars be decided and what will be the public input process?

With respect to the Draft 2050 Population Projections, Empire is suggested to have increase by 514 households by 2050. This assumes current MUSA. Responding to current market demand, at this time, the City of Empire is studying the possibility of opening up approximately 2,500 acres for development. This will require an amendment to the current Comp Plan and may be in place prior to adoption of the 2050 Plan. It will result in a significantly larger increase in population and affordable housing need. The City has been in conversation with our Sector Representative about this, but we want to go on record to inform the Council of the potential change and request likely coming forward in the next 24 months.

Sincerely,

Trent Larson	Jared Sachs
Mayor	Planning Commission Chair

CC: Charles Seipel-Teng Empire Clerk-Administrator
Angela Torres, Senior Manager, Local Planning Assistance
Patrick Boylan, Metropolitan Council Sector Representative
Wendy Wulff, Metropolitan Council Member

MEMORANDUM

Date:	September 24, 2024
To:	Empire City Council
From:	Charles Seipel-Teng, Clerk-Administrator
RE:	Consider Adopting Resolution 2024-9B; Setting Public Hearing for Proposed Vacation of Public Street

McNamara Contracting is requesting that the City Consider vacating a portion of Chippendale Ave. (Old Highway 3) that is currently used primarily by McNamara and primarily surrounded by property owned by McNamara. They would like to mine the area that the street currently sits on.

In May of 2023, at the request of McNamara Contracting, the City Council adopted Resolution 2023-5B to Consider the Vacation of a Public Street. The adoption of this resolution opened the way for McNamara to apply or petition to have the street vacated. The City has now received the application and related application fee.

The next step is to consider setting a public hearing at which the proposed Street/Right-of-Way vacation will be discussed. This is done by resolution.

If a public hearing date is set, prior to the hearing staff will prepare information for the Planning Commission to review, including information on any issues that might arise as a result of the street vacation and the proposed recommended findings of fact. Staff will also review the proposed vacation with the city's attorney to see if there are any concerns that he finds. Once reviewed and recommended for approval by the Planning Commission, the final findings of fact will be included in a formal resolution approving or denying the vacation. The City will need to ultimately find that the street vacation is in the best interest of the public.

Attached is the draft resolution setting the public hearing, the draft hearing notice, a draft timeline for considering this vacation request, and other relevant information.

Attachment(s): *2024-9B Set Street Vacation Hearing.docx*
ROW Vacation Hearing Notice.docx
McNamara ROW Vacation Timeline.docx
54765-001 EASEMENT OVERALL).pdf
Execution Document_Holcim McNamara Access Easement Agreement 07082024jra.pdf
Street Vacation.pdf
2023-5B Initiating Street Vacation.docx

CITY OF EMPIRE
MINNESOTA
RESOLUTION NO. 2024-9B

A RESOLUTION SETTING A PUBLIC HEARING FOR THE PROPOSED VACATION OF A PUBLIC STREET

WHEREAS, the City of Empire has received a petition from McNamara Contracting Inc., to request the vacation of the public street right-of-way lying along Chippendale Ave., west of State Highway 3, legally described as attached in Exhibit A; and

WHEREAS, McNamara Contracting Inc. owns a majority of the land abutting the proposed street to be vacated; and

WHEREAS, the City Council pursuant to Minnesota Statute §412.851 desires to consider the vacation of the said, legally described, public street right-of-way; and

WHEREAS, McNamara Contracting Inc. has agreed to pay, and the City has received a fee ($250.00) and escrow deposit ($2,500.00) to cover the cost of consultations, hearing notices and publications related to the proposed vacation of said public street right-of-way;

THEREFORE, BE IT RESOLVED, by the City Council of Empire, Dakota County, Minnesota, as follows:

The City Council will consider the vacation of said public street right-of-way and a public hearing shall be held on said proposed vacation on the 22nd day of October 2024, before the City Council at City Hall located at 3385 197th Street W at 7:00 PM, and

BE IT FURTHER RESOLVED that the City Clerk-Administrator is hereby direct to give published, posted and mailed notice of such hearing as required by law.

Passed by the City Council of Empire, Minnesota this 24th of September 2024.

_____
Trent Larson, Mayor

ATTEST:

_____
Charles Seipel-Teng, Clerk-Administrator

EXHIBIT A – PROPOSED RIGHT-OF-WAY TO BE VACATED

Section 1

That part of the Northwest Quarter of Section 5, Township 114, Range 19, which lies westerly of a line run parallel with and distant 75 feet easterly of the following described line:

Beginning at a point on the north line of said north line of said section, distant 204.1 feet east of the northwest corner thereof; thence run southwesterly at an angle of 66 degrees 05 minutes with said north line for 260.2 feet; thence deflect to the left on a 5 degree curve (delta angel 23 degrees 49 minutes) for 476.3 feet; thence on tangent to said curve for 4316.7 feet to the south line of said Southwest Quarter (area 200,952 s.f.)

Section 2

That part of the Northwest Quarter of the Southwest Quarter of Section 5, Township 114 North, Range 19 West, shown as Parcel 3, 5, 5A, and that part of Parcel 1C lying west of a line 590.00 feet east of and parallel to the west line of the Northwest Quarter of said section, according to the recorded plat Dakota County Road Right-of-Way No. 260, Dakota County, Minnesota. (area 151,609 s.f.)

Section 3

A strip of land 50.00 feet in width on each side of the center line of Trunk Highway No. One (1) in and across the Northwest Quarter of the Northwest Quarter of Section 5, Township 114, Range 19, said center line being described as follows: From a point on the west line of Section 5, which is 700.7 feet south of the northwest corner, deflect to the east from said west line of Section 5 on a 5 degree curve thru an angle of 23 degrees 49 minutes with a radius of 1146.28 feet, a distance of 476.3 feet; thence on tangent to said curve a distance of 255.4 feet to a point on the north line of section 5 which is 194.3 feet east of the northwest corner of afore said section 5, township 114, range 19 (area 62,258 s.f.)

PUBLIC HEARING NOTICE
CITY OF EMPIRE

NOTICE IS HEREBY GIVEN, the City Council of the City of Empire has scheduled a public hearing, beginning at 7:00 p.m., on Tuesday, October 22, 2024, at the Empire City Hall, 3385–197th Street, Farmington, MN.

The purpose of this hearing is to consider a petition to vacate a portion of city street right-of-way, which is legally described as:

Section 1
That part of the Northwest Quarter of Section 5, Township 114, Range 19, which lies westerly of a line run parallel with and distant 75 feet easterly of the following described line:

Beginning at a point on the north line of said north line of said section, distant 204.1 feet east of the northwest corner thereof; thence run southwesterly at an angle of 66 degrees 05 minutes with said north line for 260.2 feet; thence deflect to the left on a 5 degree curve (delta angel 23 degrees 49 minutes) for 476.3 feet; thence on tangent to said curve for 4316.7 feet to the south line of said Southwest Quarter (area 200,952 s.f.)

Section 2
That part of the Northwest Quarter of the Southwest Quarter of Section 5, Township 114 North, Range 19 West, shown as Parcel 3, 5, 5A, and that part of Parcel 1C lying west of a line 590.00 feet east of and parallel to the west line of the Northwest Quarter of said section, according to the recorded plat Dakota County Road Right-of-Way No. 260, Dakota County, Minnesota. (area 151,609 s.f.)

Section 3
A strip of land 50.00 feet in width on each side of the center line of Trunk Highway No. One (1) in and across the Northwest Quarter of the Northwest Quarter of Section 5, Township 114, Range 19, said center line being described as follows: From a point on the west line of Section 5, which is 700.7 feet south of the northwest corner, deflect to the east from said west line of Section 5 on a 5 degree curve thru an angle of 23 degrees 49 minutes with a radius of 1146.28 feet, a distance of 476.3 feet; thence on tangent to said curve a distance of 255.4 feet to a point on the north line of section 5 which is 194.3 feet east of the northwest corner of afore said section 5, township 114, range 19 (area 62,258 s.f.)

All interested parties are urged to attend these hearings or submit written comment to be read at the hearing.

Charles Seipel-Teng, Clerk-Administrator
City of Empire

Mailed to owners of property within 350' of right of way to be vacated.
Notice published in the October 4th edition of the Dakota County Tribune

McNamara ROW Vacation Timeline

9 18 2024- Application Received

9 24 2024- Resolution Setting a Public Hearing to Vacate Adopted

9 27 2024- Public Hearing Notice Posted and Sent to be Published

10 4 2024- Public Hearing Notice Published

Staff and Attorney gather information for Findings of Fact

10 15 2024- Planning Commission Reviews Vacation Application

10 22 2024- City Council Holds Public Hearing on Vacation and Considers Resolution to Vacate (Resolution to contain Findings of Fact for Vacation)

After Adoption- City Clerk Certifies Vacation with County Recorder (I will check to see if Recorder has a preferred form)

VACATED EASEMENT DESCRIPTION 1

That part of the Northwest Quarter of Section 5, Township 114, Range 19, which lies westerly of a line run parallel with and distant 75 feet easterly of the following described line:

Beginning at a point on the north line of said north line of said section, distant 204.1 feet east of the northwest corner thereof; thence run southwesterly at an angle of 66 degrees 05 minutes with said north line for 260.2 feet; thence deflect to the left on a 5 degree curve(delta angle 23 degrees 49 minutes) for 476.3 feet; thence on tangent to said curve for 4316.7 feet to the south line of said Southwest Quarter.

Vacated Easement Area: 200,952 s.f.

VACATED EASEMENT DESCRIPTION 2

That part of the Northeast Quarter of the Southwest Quarter of Section 5, Township 114 North, Range 19 West, shown as Parcel 3, 5, 5A, and that part of Parcel 1C lying west of a line 590.00 feet east of and parallel to west line of the Northwest Quarter of said section, according to the recorded plat Dakota County Road Right-of-Way No. 260, Dakota County, Minnesota.

Vacated Easement Area: 151,609 s.f.

VACATED EASEMENT DESCRIPTION 3

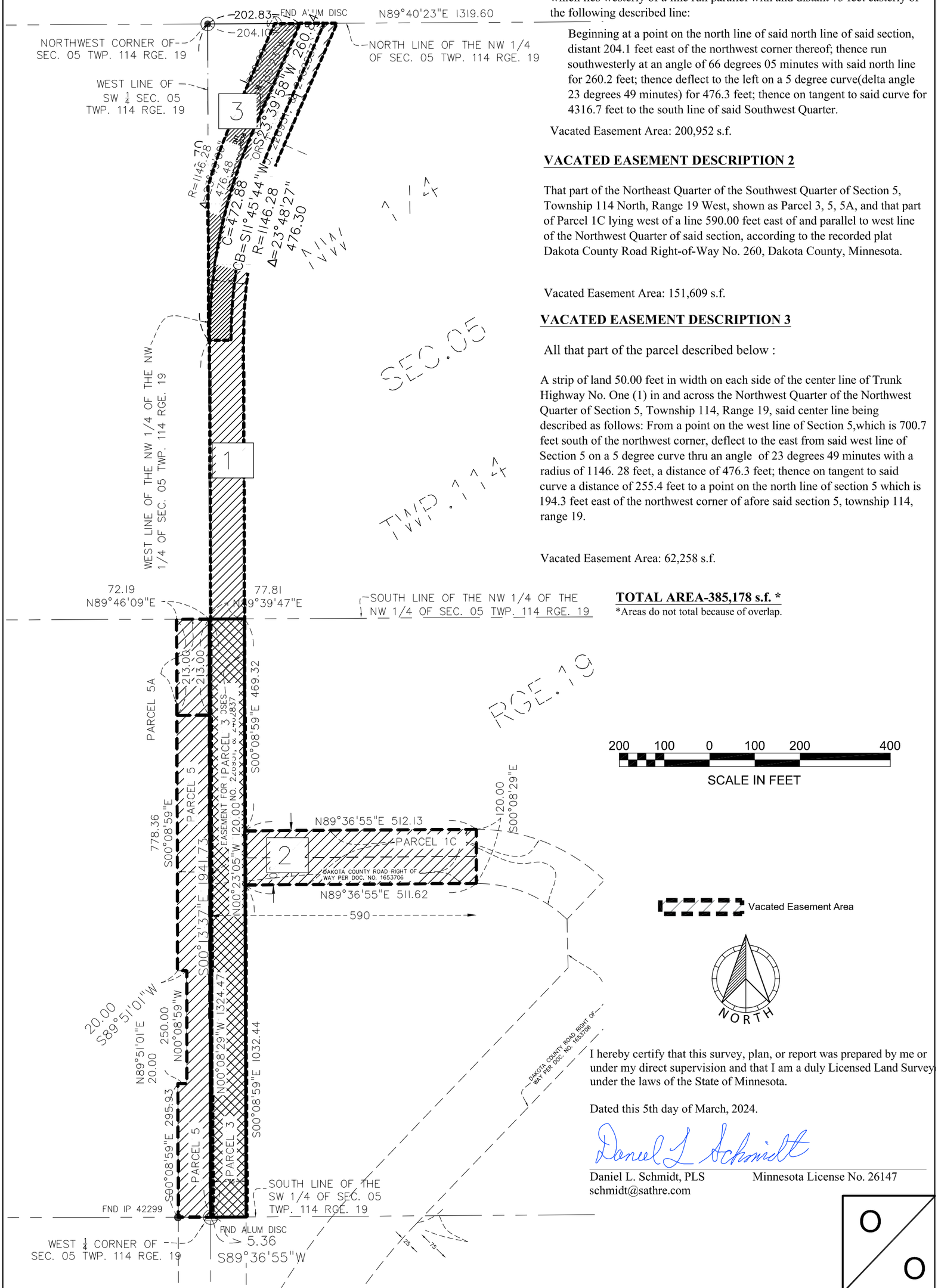
All that part of the parcel described below :

A strip of land 50.00 feet in width on each side of the center line of Trunk Highway No. One (1) in and across the Northwest Quarter of the Northwest Quarter of Section 5, Township 114, Range 19, said center line being described as follows: From a point on the west line of Section 5,which is 700.7 feet south of the northwest corner, deflect to the east from said west line of Section 5 on a 5 degree curve thru an angle of 23 degrees 49 minutes with a radius of 1146. 28 feet, a distance of 476.3 feet; thence on tangent to said curve a distance of 255.4 feet to a point on the north line of section 5 which is 194.3 feet east of the northwest corner of afore said section 5, township 114, range 19.

Vacated Easement Area: 62,258 s.f.

TOTAL AREA-385,178 s.f. *

*Areas do not total because of overlap.



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

Dated this 5th day of March, 2024.

Daniel L. Schmidt

Daniel L. Schmidt, PLS Minnesota License No. 26147
schmidt@sathre.com

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SATHRE-BERGQUIST, INC.
ENGINEERS SURVEYORS DESIGNERS PLANNERS
14000 25TH AVENUE NORTH, SUITE 120
PLYMOUTH MN 55447 (952) 476-6000
WWW.SATHRE.COM

Section 5 - Township 114 - Range 19

CERTIFICATE OF SURVEY
PREPARED FOR
MCNAMARA CONTRACTING, INC.

JOB #:54765-001	REVISIONS
FIELD CREW:	
DRAWN BY:BRV	
CHECKED BY:DLS	
DATE:02/29/24	

ACCESS EASEMENT AGREEMENT

July 3, 2024

Empire Sand & Gravel LLC, a Minnesota limited liability company ("**McNamara**"), owns the following two parcels of land in the City of Empire, Dakota County, Minnesota: (i) the parcel with a street address of 16387 Chippendale Avenue, which the county currently identifies by parcel number 120060006010, and (ii) the parcel with a street address of 16172 Chippendale Avenue, which the county currently identifies by parcel number 120050026010 (together, the "**McNamara Property**"). The McNamara Property is legally described in **Exhibit A** to this Agreement.

A short, truncated, section of old Chippendale Avenue West runs north and south along the boundary between the two parcels that comprise the McNamara Property and 164th Street West runs through one of the parcels between the old Chippendale Avenue and new Chippendale Avenue West that is also designated as Highway 3. McNamara has requested that the City vacate the old portion of Chippendale Avenue West and 164th Street West where they adjoin the McNamara Property.

Holcim – MWR, Inc., a Minnesota corporation ("**Holcim**"), is the permitee under an Interim Use Permit from the City (the "**IUP**") that permits it to mine sand and gravel on the parcel of land that that county identifies by parcel number 120060075010 (the "**Holcim Property**"). The Holcim Property adjoins the southern boundary of part of the McNamara Property and the southern end of the old Chippendale Avenue, and has access over Chippendale Avenue West and 164th Street to new Chippendale Avenue. The City has required, as a condition to vacating old Chippendale Avenue and 164th Street, that McNamara obtain Holcim's consent to the vacation.

1. Easement Granted. Holcim hereby consents to the vacation of old Chippendale Avenue West and 164th Street West and agrees to confirm its consent to the City. In consideration, McNamara hereby grants to Holcim a non-exclusive easement to use the vacated portions of old Chippendale Avenue West and 164th West for access between the Holcim Property and new

Chippendale Avenue West, as shown in the exhibit in **Exhibit B** to this Agreement (the "Easement"). Holcim agrees that this Easement is only for vehicle access in connection with Holcim's mining operations under the IUP, and will automatically terminate on the earlier of the date the IUP expires or is terminated or Dec 31, 2030. Holcim agrees that McNamara has the right to remove the existing paved roadways on the vacated streets, to mine sand and aggregate within the Easement, and to otherwise alter and use the Easement, as long as the Easement area remains usable and accessible for Holcim trucks to access new Chippendale Avenue West.

2. Notices. All notices to either party under or in connection with this Agreement must be in writing and will be effective and delivered on the date sent by email, by certified or registered mail, or by courier delivery to the following recipients at the following addresses:

McNamara:

Jamin Anderson
McNamara Contracting, Inc.
16700 Chippendale Avenue West
Rosemount, Minnesota 55068
jamina@McNamaraContracting.com

Holcim:

Tom Schmit
Aggregates, General Manager
Holcim - MWR, Inc.
2815 Dodd Rd, Ste 101
Eagan, MN, USA
tom.schmit@holcim.com

3. General. The parties agree that: (a) this Agreement is the entire agreement between the parties with respect to its subject matter and it supersedes all prior agreements, whether oral or written, express or implied, and all negotiations or discussions between the parties with respect to its subject matter; (b) this Agreement may not be changed, altered, modified, or terminated, except by an instrument in writing signed by both parties; (c) if any provision of this Agreement is determined to be invalid or unenforceable for any reason, the determination will not alter, affect, or impair any other part of this Agreement, and the valid portions of this Agreement will remain in full force and effect; (d) in any lawsuit or other proceeding between the parties under or in connection with this Agreement, the party that does not prevail will pay the prevailing party's costs of the lawsuit or other proceeding, including reasonable attorney fees and any mediator and arbitrator fees; (e) a party's failure to object to or take any action with respect to a breach or violation of this Agreement by the other party does not waive the breach or violation, and one or more waivers of any breach or violation of this Agreement do not waive a subsequent breach or violation of the same or any other provision of this Agreement; (f) no consent to or approval of any act or request by a party will be deemed to waive or make unnecessary the consent to or approval of any subsequent similar act or request; (g) party's consent to or approval of any particular act or request by the other party is not consent to or approval of any subsequent similar act or request; (h) the rights and remedies this Agreement provides are cumulative and a party's

exercise of any particular right or remedy does not preclude the party from exercising any other right or remedy under this Agreement or otherwise; and (i) this Agreement will be governed by and construed in accordance with the laws of the State of Minnesota.

Signature Page Follows

Signature Page to
Access Easement Agreement

McNamara:

Empire Sand & Gravel LLC

By: _____
Mike McNamara, its Managing Partner

Dakota County, Minnesota

This instrument was acknowledged before me on July 8, 2024 by Mike McNamara, an authorized signer for Empire Sand & Gravel LLC, a Minnesota limited liability company, on behalf of Empire Sand & Gravel LLC.

_____
Notary Public

BARBARA J BALFE
NOTARY PUBLIC
MINNESOTA
My Commission Expires Jan. 31, 2025

Holcim:

Holcim - MWR, Inc.

By: _____
Tom Schmit, its authorized signer

Dakota County, Minnesota

This instrument was acknowledged before me on July 3, 2024 by Tom Schmit, an authorized signer for Holcim - MWR, Inc., a Minnesota corporation, on behalf of Holcim - MWR, Inc.

_____
Notary Public

BARBARA J BALFE
NOTARY PUBLIC
MINNESOTA
My Commission Expires Jan. 31, 2025

Drafted by:

Fabyanske, Westra, Hart & Thomson, P.A.
Suite 1900
80 South 8th Street
Minneapolis, MN 55402

EXHIBIT A

Legal Description of McNamara Property

PID 120050026010 (16172 Chippendale Avenue West):

That part of the Southeast Quarter of the Northeast Quarter, lying East of Railroad, and West of State Trunk Highway No. 3, except the North 213 feet thereof, in Section 6, Township 114, Range 19, Dakota County, Minnesota.

Abstract Property

PID 120060006010 (16387 Chippendale Avenue West):

The West ½ of the Northwest ¼ and the Northeast ¼ of the Northwest ¼, Section 5, Township 114, Range 19, Dakota County, Minnesota.

EXCEPT that part thereof taken for Railroad.

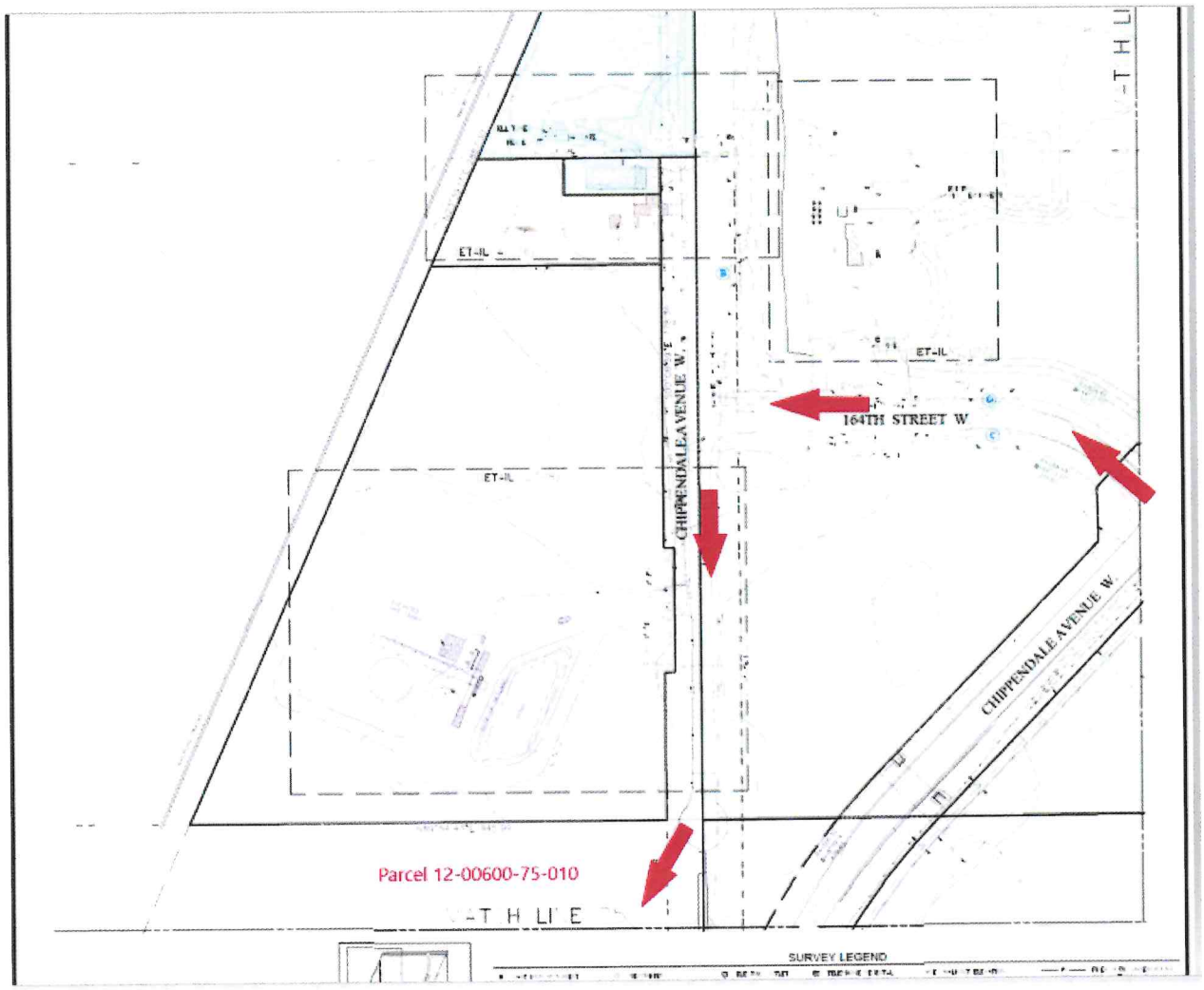
AND EXCEPT Parcel 6B of Dakota County Road Right of Way Map No. 259.

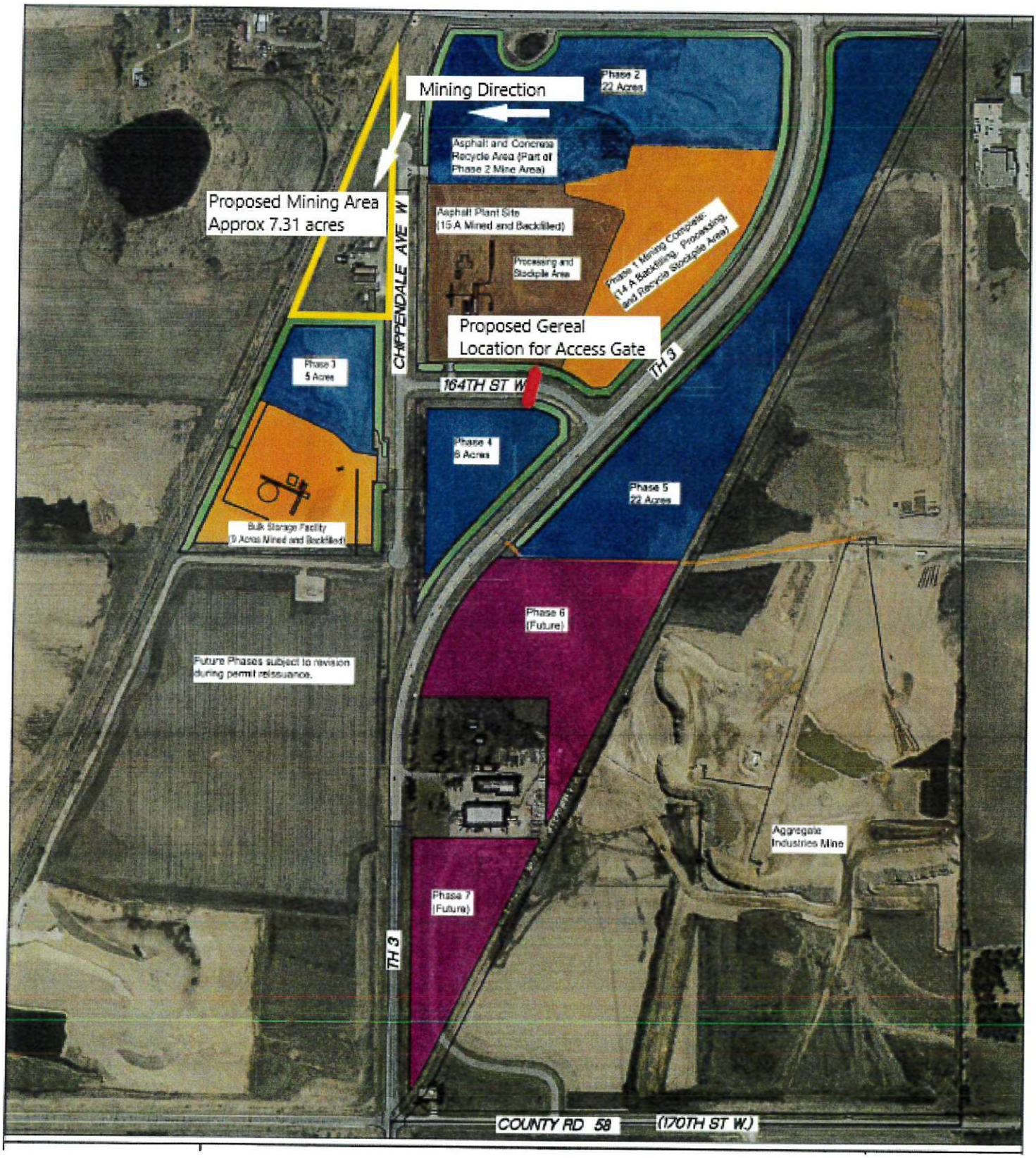
AND EXCEPT Parcel 1, Dakota County Road Right of Way Map No. 260.

Abstract Property

EXHIBIT B

Depiction of Access Easement Area




Mining Direction
Phase 2
22 Acres
Asphalt and Concrete Recycle Area (Part of Phase 2 Mine Area)
Proposed Mining Area
Approx 7.31 acres
Asphalt Plant Site
(15 A Mined and Backfilled)
Processing and Stockpile Area
Phase 1 Mining Complete: 14 A Backfilling, Processing, and Recycle Stockpile Area)
CHIPPENDALE AVE W
Proposed Gereal
Location for Access Gate
TH 3
164TH ST W
Phase 3
5 Acres
Phase 4
5 Acres
Phase 5
22 Acres
Bulk Storage Facility
(3 Acres Mined and Backfilled)
Phase 6
(Future)
Future Phases subject to revision during permit reissuance.
Aggregate Industries Mine
Phase 7
(Future)
TH 3
COUNTY RD 58
(170TH ST W.)

CITY OF EMPIRE
MINNESOTA
RESOLUTION NO. 2023-5B

A RESOLUTION AUTHORIZING CONSIDERATION OF THE VACATION OF A PUBLIC STREET

WHEREAS, the City of Empire has received a request from McNamara Contracting Inc. to request the vacation of the public street right-of-way for Chippendale Avenue and 164th Street in the City of Empire; and

WHEREAS, the City Council pursuant to Minnesota Statute §412.851 desires to consider the vacation of the said public street right-of-way; and

WHEREAS, the City Council has determined additional information is required prior to setting a public hearing date for the said vacation.

THEREFORE, BE IT RESOLVED, by the City Council of Empire, Dakota County, Minnesota, that the City Council will explore the vacation of said public street right-of-way, subject to the following conditions:

1. McNamara Contracting Inc. has agreed to pay, and the City has received a fee ($250.00) and escrow deposit ($2,500.00) to cover the cost of consultations, hearing notices and publications related to the proposed vacation of said public street right-of-way;
2. McNamara Contracting must provide a written legal description of the right-of-way to be vacated.
3. The City Council will consider adoption of a resolution setting a public hearing on the vacation of said public street right-of-way upon receipt of the written legal description.

Passed by the City Council of Empire, Minnesota this 23rd day of May, 2023

_____
Trent Larson, Mayor

ATTEST:

_____
Charles Seipel-Teng, Clerk-Administrator

MEMORANDUM

Date:	September 24, 2024
To:	Empire City Council
From:	Charles Seipel-Teng, Clerk-Administrator
RE:	Consider Amendments to the City's Personnel Policy

The City's Personnel Policy's section regarding discipline currently provides that oral and written reprimands are issued by the City Council. I have concerns about these types of reprimands being issued at public City Council meetings and feel that they can be handled by the Clerk-Administrator or immediate supervisor, provided that the City Council's Personnel Committee is notified of the disciplinary action. The City Council would become involved, during a closed meeting, if the stated disciplinary actions fail to correct an employee issue and further action needs to be taken.

The Personnel Committee has reviewed the recommended amendments to the Personnel Policy and recommend approval.

Attachment(s): Personnel Policy Draft Amendments.pdf

DISCIPLINE

General Policy

The objective of this policy is to establish a standard disciplinary process for employees of the city. Employees will be subject to disciplinary action for failure to fulfill their duties and responsibilities at the level required, including observance of work rules and standards of conduct and applicable city policies.

Discipline will be administered in a non-discriminatory manner. An employee who believes that discipline applied was either unjust or disproportionate to the offense committed may pursue a remedy through the grievance procedures established in the city's personnel policies. The ~~City Council or its designee~~supervisor and/or the City Clerk-Administrator will investigate any allegation on which disciplinary action might be based before any disciplinary action is taken.

The circumstances surrounding the reason for disciplinary action will be reviewed on a case-by-case basis to determine the appropriate level of disciplinary action, if any.

While the city strives for consistency, the level of discipline taken in any given case does not establish a precedent for future similar circumstances.

No Contract Language Established

This policy is not to be construed as contractual terms and is intended to serve only as a guide for employment discipline.

This policy does not change the fact that employment with the city is at-will, meaning that an employee has the right to terminate it, at any time and for any reason, with or without cause or notice, and that the city has that same right. At-will employment does not necessarily equate to an employee leaving in good standing upon separation from employment. The determination of an employee leaving in good standing will be determined by the City Council upon the employee's separation from employment with the city.

Process

The city may elect to use progressive discipline; a system of escalating responses intended to correct the negative behavior rather than to punish the employee. There may be circumstances that warrant deviation from the suggested order or where progressive discipline is not appropriate. Nothing in these personnel policies implies that any city employee has a contractual right or guarantee (also known as a property right) to the job he/she performs.

Documentation of disciplinary action taken will be placed in the employee's personnel file with a copy provided to the employee.

An employee who has been notified that he/she is being investigated for possible disciplinary action shall be informed, in writing, of the status of the investigation upon its conclusion.

Examples of Possible Disciplinary Actions

The following are descriptions of the types of disciplinary actions:

Oral Reprimand

This measure will be used where informal discussions with the employee's supervisor have not resolved the matter. ~~The City Council has~~ All supervisors have the right to issue oral reprimands. If ~~the a City Council~~supervisor has reason to reprimand an employee, it shall be done in a manner that shall not embarrass the employee before other employees or the public. Oral reprimands should be identified as such.

Oral reprimands are normally given for first infractions on minor offenses to clarify expectations and put the employee on notice that the performance or behavior needs to change, and what the change must be. The ~~City Council~~Clerk-Administrator will document the oral reprimand including date(s) and a summary of discussion and corrective action needed. The oral reprimand will be brought to the attention of the City Council Personnel Committee.

Written Reprimand

A written reprimand is more serious and may follow an oral reprimand when the problem is not corrected or the behavior has not consistently improved in a reasonable period of time. Serious infractions may require skipping either the oral or written reprimand, or both. ~~The City Council issues written reprimands~~Written reprimands are issued by the supervisor with prior approval from the City Clerk-Administrator and a copy shall be provided to the City Council Personnel Committee.

A written reprimand will: (1) state what did happen; (2) state what should have happened; (3) identify the policy, directive or performance expectation that was not followed; (4) provide history, if any, on the issue; (5) state goals, including timetables, and expectations for the future; and (6) indicate consequences of recurrence.

Employees will be given a copy of the reprimand to sign acknowledging its receipt. Employees' signatures do not mean the employee agrees with the reprimand. Written reprimands will be placed in the employee's personnel file.

Suspension With or Without Pay

The City Clerk-Administrator, with City Council approval, may suspend an employee without pay for disciplinary reasons. Suspension without pay may be followed with immediate dismissal as deemed appropriate by the City Council, except in the case of veterans. Qualified veterans will not be suspended without pay in conjunction with a termination.

The employee will be notified in writing of the reason for the suspension either prior to the suspension or shortly thereafter. A copy of the letter of suspension will be placed in the employee's personnel file.

An employee may be suspended or placed on involuntary leave of absence pending an investigation of an allegation involving that employee. The leave may be with or without pay depending on a number of factors including the nature of the allegations. If the allegation is proven false after the investigation, the relevant written documents will be removed from the employee's personnel file and the employee will receive any compensation and benefits due had the suspension not taken place.

Salary or Wages

An employee's salary or wage increase may be ~~withheld~~withheld, or the salary may be decreased due to performance deficiencies.

Separation of Employment

The ~~City Council~~City Clerk-Administrator, with the approval of the City Council, may dismiss an employee for substandard work performance, serious misconduct, or behavior not in keeping with city standards.

If the disciplinary action involves the removal of a qualified veteran, the appropriate hearing notice will be provided and all rights will be afforded the veteran in accordance with Minnesota law.

Grievance Procedure

The city realizes that effective communication between employees and the City Council is essential to maintain a productive working relationship. In addition, recognizing that on-the-job work experience is the best source of suggestions for improvement in the workplace, the City Council welcomes and solicits ideas from all employees. Suggestions concerning the city's operation, general maintenance, facilities, services, or other matters should be made to the City Council or it's personnel committee. Concerns that are expressed only to co-workers or to persons outside the city are not likely to be given the attention that they deserve and may violate confidentiality considerations.

In any organization, dissatisfaction may arise because an employee does not know, understand, or agree with certain policy interpretations or management decisions. Such dissatisfactions are commonly referred to as grievances. At The City of Empire, the City Council believes that if an employee has a grievance concerning wages, hours of work, or other terms or conditions of employment, the matter should receive the consideration of all concerned.

An employee who feels aggrieved is urged to take the matter up immediately with the City Council or its personnel committee. The City Council is required to investigate your grievance and provide you a response or decision within a reasonable period of time as outlined below. The investigation may consist of, but is not limited to, gathering information from other employees involved, reviewing city policy, and any other action necessary to make an informed decision.

There will be no adverse action taken against a complaining employee as a result of making the complaint, regardless of the outcome of the investigation.

Any dispute between an employee and the city relative to the application, meaning or interpretation of these personnel policies will be settled in the following manner:

> **Step 1**: The employee must present the grievance in writing, stating the nature of the grievance, the facts on which it is based, the provision or provisions of the personnel policies allegedly violated and the remedy requested, to the clerk-administrator within twenty-one (21) days after the alleged violation or dispute has occurred. The City Council will respond to the employee in writing within ten (10) calendar days.

MEMORANDUM

Date:	September 24, 2024
To:	Empire City Council
From:	Charles Seipel-Teng, Clerk-Administrator
RE:	Consider Renewing the City's Employee Health Insurance Coverage with BlueCross BlueShield of Minnesota

Renewal rates for the City's Plan are increasing 4.5% (lower than last year's 7.3%). However, because our employees are all getting another year older, the total plan premium is proposed to increase 6.7%. There is adequate room in the proposed 2025 Budget to cover this increase.

Attachment(s): BCBS Premium 2025.pdf

Blue Cross and Blue Shield of Minnesota
P.O. Box 64560
St. Paul, MN 55164-0560
(651) 662-8000 / (800) 382-2000

BlueCross BlueShield Minnesota

CHARLES SEIPEL
CITY OF EMPIRE
3385 197TH ST W
FARMINGTON, MN 55024-9658

September 03, 2024
Client # 200238
Re: December 2024 Renewal

Dear Charles Seipel:

At Blue Cross Blue Shield of Minnesota (Blue Cross), we recognize the indispensable role your employees play in driving the success of your business. Having healthy employees is essential, and we are fully dedicated to supporting you in promoting a healthy and thriving workplace.

This packet contains everything you need to know for your insurance renewal. Inside, you will find a step-by-step outline to successfully complete the renewal process, as well as a comprehensive Renewal Bulletin that outlines changes to our products, new and innovative solutions, and programs.

We are excited to introduce our latest solution, Blue Care Advisor℠, that brings even more personalized support to your employees' health journey. This enhanced platform, integrated into your health plan, encourages engagement and healthy behaviors. Blue Care Advisor makes understanding your health plan easier than ever before by allowing employees to seamlessly connect to their benefits, claims, programs, rewards, and more, all in one place. We encourage you to explore it firsthand by logging in and experiencing its potential. Here are some highlighted features:

- Earn rewards by being active
- Complete a health assessment to support your health goals
- Find high-quality providers with expertise that fits you
- Access your insurance card anywhere from your smartphone
- View important plan and benefit information.

Should you have any questions regarding your renewal or require assistance, our team is here to help. Feel free to reach out to us directly or contact your broker. We value the trust you have placed in us to prioritize the well-being of your employees and appreciate your continued partnership.

Blue Cross and Blue Shield of Minnesota and Blue Plus are nonprofit independent licensees of the Blue Cross and Blue Shield Association.

Important Steps for Your Renewal

Step 1: Decide

Review all the enclosed information and decide if you want to make a plan change or if you choose to automatically be enrolled into the plans included in this packet. Complete the survey and return it to Blue Cross if you answered "No" to any of the questions. Discuss your renewal with your agent or Blue Cross sales representative.

Step 2: Update

Update who's covered and which plan your employees are on. Submit plan changes through our portal or work with your agent or Blue Cross sales representative.

Step 3: Pay

View your new bill to see the current census of enrolled members at the time of your renewal. Pay as billed and any enrollment adjustments will apply to future invoices after the updates are processed.

Step 4: Save

Save the enclosed rate sheet for future reference.

Please see the 2024 Small Group Decision Guide by visiting:
www.bluecrossmn.com/SGDG2024

Please see additional support documents by visiting:
www.bluecrossmn.com/smallgroup

Add Dental and Vision Plans – Enhance Your Benefits Package
Dental and vision plans will enhance your benefits package and help you attract and retain your employees. Our dental and vision plans make it easy with one bill for all your plans, one portal for your employees, and one employer portal for you. Ask your agent or Blue Cross sales representative about Blue Cross Dental and Blue Cross Vision or visit:

- www.bluecrossmn.com/dental
- www.bluecrossmn.com/visionplans

What's New and Innovative

- New Prescription Drug Copay Plans for Specialty Drug Tier
- New Benefits – Certified Peer Specialists and Diabetes Prevention Program (DPP)

Prescription Drug Coverage - Zero Member Cost-Share for Insulin
For HSA plans, insulin listed on Tier 1 of the covered drug list are covered at zero cost-sharing. For non-HSA plans, insulin listed on Tier 1 and Tier 2 of the covered drug list are covered at zero cost-sharing.

Cost Sharing Changes
Many of our deductibles, copays, coinsurance, and out-of-pocket maximums are being updated to comply with government regulations and IRS guidelines. Please see the renewal bulletin for more information. All our health plans include important health and wellbeing programs for you and your employees.

Discontinued for 2024

- AdvanceHealth Silver $4100 Plan 326
- AdvanceHealth Gold $500 Plan 327
- AdvanceHealth Gold $1000 Plan 328
- AdvanceHealth Gold $2000 Plan 329
- AdvanceHealth Platinum No Deductible Plan 330

Please review the **2024 Small Group Decision Guide** for more information about plan options, then consult with your agent to determine which one meets your needs.

Blue Cross and Blue Shield of Minnesota and Blue Plus are nonprofit independent licensees of the Blue Cross and Blue Shield Association.

2024 Health Plan Premium Rates
Below are the monthly premium rates for renewing your current health plan. Your plan will become effective for the 12-month contract period beginning December 1, 2024.

The estimated monthly premiums are based on the age of each of your covered employees and their covered dependent spouse and/or child(ren). Monthly estimated premium calculations for dependent children under age 21 are capped at three per family. This is **an estimate** based on current enrollment. Your final premium amount may change depending on the individuals who enroll in the plan. Your invoice summary will provide you with total premium charges.

The enclosed "Notice of Alternative Rate Schedules" includes the **estimated** monthly premiums for alternative health plans. Those premiums are based on the age of each of your covered employees and their covered dependent spouse and/or child(ren) and reflect **an estimate** based on current enrollment. Your final premium amount for the alternative health plans may change depending on the individuals who enroll in the plan.

Your 2024 estimated monthly premiums are shown below.

Health Plan	Group	Estimated Monthly Premium
BlueAccess Platinum No Deductible Plan 655	10199999	$5,787.41

Please see the "Renewing Plan - Rate Chart" for more information on estimated rate details.

Paying your first month's premium for your renewal means that you accept the premium rates and all coverage terms and conditions in this letter and the group contract.

If you have any questions, please contact Allan Roth at 612-940-8526.

Thank you for choosing Blue Cross and Blue Shield of Minnesota and Blue Plus (Blue Cross) for your health plan.

Sincerely,
Your Blue Cross Account Management Team

90.72 2025 5,787.41 6.7%
2024 5422.17
2023

NOTICE OF ALTERNATIVE RATE SCHEDULES
Effective December 1, 2024

Re: Client# 200238 Alternative Rates that are available

Program	Estimated Monthly Premium based on Current Enrollment
High Value Bronze $9450 Plan 550	$3,264.13
High Value HSA Bronze $8050 Plan 599	$3,428.28
BlueAccess Bronze $9450 Plan 618	$3,488.89
High Value HSA Bronze $7200 Plan 656	$3,540.81
High Value Silver $4500 Prescription Copay Plan 583	$3,551.64
High Value Silver $4000 Plan 552	$3,601.69
High Value HSA Silver $6300 Plan 561	$3,660.49
BlueAccess HSA Bronze $8050 Plan 598	$3,664.36
High Value Silver $3250 Plan 551	$3,694.30
High Value Silver $2950 Plan 662	$3,732.47
High Value HSA Silver $5800 Plan 554	$3,741.36
High Value Silver $4200 Plan 560	$3,746.01
BlueAccess HSA Bronze $7200 Plan 624	$3,784.60
BlueAccess Silver $4500 Prescription Copay Plan 582	$3,796.18
BlueAccess Silver $4000 Plan 627	$3,849.76
High Value HSA Silver $3300 Plan 553	$3,858.69
High Value HSA Silver $5150 Plan 660	$3,876.03
BlueAccess HSA Silver $6300 Plan 628	$3,912.55
BlueAccess Silver $3250 Plan 625	$3,948.64
BlueAccess Silver $2950 Plan 623	$3,989.53
BlueAccess HSA Silver $5800 Plan 640	$3,998.97
High Value HSA Silver $4600 Plan 555	$3,999.19
BlueAccess Silver $4200 Plan 626	$4,003.94
High Value Gold $2500 Prescription Copay Plan 585	$4,096.11
BlueAccess HSA Silver $3300 Plan 632	$4,124.38
BlueAccess HSA Silver $5150 Plan 645	$4,142.95
High Value Gold $2000 Plan 557	$4,183.72
High Value HSA Gold $3750 Plan 692	$4,224.43
BlueAccess HSA Silver $4600 Plan 642	$4,274.56
BlueAccess Gold $2500 Prescription Copay Plan 584	$4,378.21
High Value Gold $1000 Plan 664	$4,383.26
BlueAccess Gold $2000 Plan 652	$4,471.86
BlueAccess HSA Gold $3750 Plan 690	$4,515.35
High Value Gold $500 Plan 556	$4,517.71
High Value HSA Gold $2600 Plan 558	$4,625.83
BlueAccess Gold $1000 Plan 637	$4,685.04
BlueAccess Gold $500 Plan 635	$4,828.78
BlueAccess HSA Gold $2600 Plan 653	$4,944.35
High Value Platinum No Deductible Plan 559	$5,414.54
BlueAccess Platinum No Deductible Plan 655	$5,787.41

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Last year 7.3%

Proposed - 4.5%

Renewing Plan - Rate Chart
Group 10199999

Age Band	
0 - 20	$480.26
21	$539.62
22	$539.62
23	$539.62
24	$539.62
25	$541.78
26	$552.57
27	$565.52
28	$586.57
29	$603.83
30	$612.47
31	$625.42
32	$638.37
33	$646.46
34	$655.10
35	$659.41
36	$663.73
37	$668.05
38	$672.37
39	$681.00
40	$689.63
41	$702.58
42	$715.00
43	$732.26
44	$753.85
45	$779.21
46	$809.43
47	$843.43
48	$882.28
49	$920.59
50	$963.76
51	$1,006.39
52	$1,053.34
53	$1,100.82
54	$1,152.09
55	$1,203.35
56	$1,258.93
57	$1,315.05
58	$1,374.95
59	$1,404.63
60	$1,464.53
61	$1,516.33
62	$1,550.33
63	$1,592.96
64	$1,618.86
65+	$1,618.86

Blue Cross and Blue Shield of Minnesota and Blue Plus are nonprofit independent licensees of the Blue Cross and Blue Shield Association.

MEMORANDUM

Date:	September 24, 2024
To:	Empire City Council
From:	Charles Seipel-Teng, Clerk-Administrator
RE:	Parking on Streets During Events at Stelzel Fields

This concern was brought to Councilmember Hanson and on the agenda for discussion:

This image is on 190th street looking West towards the roundabout.

Taken on the Saturday the Sheriffs event.

Resident comments

"Gonna have to ask the city about this, no place to park so people park there and then you can't drive through. This has happened several times now."

Attachment(s): Traffic.jpg



MEMORANDUM

Date:	September 24, 2024
To:	Empire City Council
From:	Charles Seipel-Teng, Clerk-Administrator
RE:	Clerk-Administrator Update

Update on DCTOA Meeting Notes, new Kwik Trip opening dates.

MEMORANDUM

Date:	September 24, 2024
To:	Empire City Council
From:	Charles Seipel-Teng, Clerk-Administrator
RE:	Information from Charter Communications on Cable Package Changes

Attachment(s): Empire City, MN LT_091724.pdf

Charter
COMMUNICATIONS

September 17, 2024 Delivery via Email Please Reply "Received"

Mr. Charles Seipel - Teng
City of Empire
3385 197th Street
Farmington, MN 55024

RE: Charter Communications – Upcoming Changes – *New Customers Only*

Dear Mr. Seipel - Teng:

We value our customers and continue to improve our services with the finest entertainment products available, while also providing a compelling suite of video services at the greatest value. Effective on or around September 17, 2024, Charter will begin implementing all-in pricing for **new** video customers. Below is **new** customer package pricing.

Service	Rack Rate	Broadcast TV Surcharge	Increase (due to increase in programming costs)	New All-In Pricing Total*
Spectrum TV Select Plus	$94.99	$25.75	$4.26	$125.00
Spectrum TV Select	$89.99	$25.75	$4.26	$120.00
Spectrum Select Signature	$84.99	$25.75	$4.26	$115.00
Spectrum Mi Plan Latino	$59.99	$25.75	$4.26	$90.00
Spectrum TV Choice	$49.99	$25.75	$4.26	$80.00
Spectrum Basic	$9.99	$25.75	$0.26	$36.00

Package prices will not change for **existing** customers.

We remain committed to providing excellent entertainment services in your community. If you have any questions about this change, please feel free to contact me at (952) 367-4263 or via email at david.larson@charter.com.

Sincerely,

David Larson
Director, State Government Affairs Minnesota
Charter Government Affairs

*Pursuant to the FCC's "all-in pricing" order, Charter is aggregating the cost of video programming including for broadcast retransmission consent, regional sports programming, and other programming-related fees.

MEMORANDUM

Date:	September 24, 2024
To:	Empire City Council
From:	Charles Seipel-Teng, Clerk-Administrator
RE:	Legal Service Rate Increase

Current billing rates are $265/hr. for general work.
Previous rates were
2021: $210 -$220hr.
2022: $220 -$250hr.
2023: $230hr.

Attachment(s): Attorney Rates.pdf

COURI & RUPPE, P.L.L.P

Michael C. Couri*
Robert T. Ruppe**
Mark S. Allseits

**Also Licensed in Illinois*
***Also Licensed in California*

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705 Central Avenue East
PO Box 369
St. Michael, MN 55376-0369
(763) 497-1930
(763) 497-2599 (FAX)
www.couriruppe.com

September 6, 2024

City of Empire
Charles Seipel-Teng, City Administrator
3385 197th Street
Farmington, MN 55024

Re: Legal Service Rate Increase

Dear Charlie:

Please note that effective January 1, 2025, our hourly rate will be increasing to $275 per hour for all general legal work and to $300 per hour for all development work (this amount is passed through to the developer for payment related to work done on their plat). The City Council meeting rate will continue to be billed at our general hourly rate of $275 per hour.

Please feel free to contact our office if you or any member of the City Council has any questions regarding this matter. Thank you.

Sincerely,

Kathleen Budish

Kathleen H. Budish
Couri & Ruppe, P.L.L.P.