

PLANNING COMMISSION AGENDA

Thursday, December 12, 2024

CITY OF DAYTON, MINNESOTA

12260 So. Diamond Lake Road, Dayton, MN 55327

REGULAR MEETING OF THE PLANNING COMMISSION – 6:30 P.M.

To Participate in the Meeting, please see cityofdaytonmn.com Calendar for Zoom Invitation.

6:30 **1. CALL TO ORDER**

6:30 **2. PLEDGE OF ALLEGIANCE**

(Roll Call)

6:30 **3. ROLE OF THE PLANNING COMMISSION**

The Planning Commission consists of five residents appointed by the City Council. The Commission administers the Comprehensive Plan, Zoning and Subdivision regulations. The Commission conducts Public Hearings and provides recommendations to the City Council. It is the City Council who may approve or deny land use applications.

6:35 **4. APPROVAL OF AGENDA**

6:35 **5. CONSENT AGENDA**

These routine or previously discussed items are enacted with one motion. Note: Commissioners absent from previous meetings may still vote to approve minutes.

A. Planning Commission Minutes, November 7, 2024

6:35 **6. OPEN FORUM**

Public comments are limited to 3 minutes for non-agenda items; state your name and address; No Commission action will be taken, and items will be referred to staff. Group commenters are asked to have one main speaker.

6:40 **7. COUNCIL UPDATE**

A. November 12, 2024

B. November 26, 2024

C. December 10, 2024

6:45 **8. PUBLIC HEARINGS**

6:45 A. Recommendation of Approval of Ordinance 2024-__ Amending City Code
XXXX regarding Cannabis

7:00 B. Recommendation of Approval of Ordinance 2024-__, Amendment City Code
1001.20 regarding Signage

7:10 C. Concept Plan, TQ Farms (Quilling)

7:25 **9. NEW BUSINESS**

The City of Dayton's mission is to promote a thriving community and to provide residents with a safe and pleasant place to live while preserving our rural character, creating connections to our natural resources, and providing customer service that is efficient, fiscally responsible, and responsive.

7:25 A. Discussion: A-3 Agricultural District

8:25 **10. NOTICES AND ANNOUNCEMENTS**

 A. Planning Commission Vacancy

 Application: <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://cityofdayton.wpenginepowered.com/wp-content/uploads/2023/12/updated-planning-commission-document-04-24-2024.pdf>

 B. Staff Updates

8:30 **11. ADJOURNMENT** (Motion to Adjourn)

I. CALL TO ORDER

DeMuth called the November 7, 2024, Planning Commission Meeting to order at 6:30 p.m.

Present: DeMuth, Browen, Crosland, and Van Asten

Absent: Preisler

Also in Attendance: Jason Quisberg, City Engineer; Kevin Shay, Planning Consultant; Jon Sevald, Community Development Director; Hayden Stensgard, Associate Planner II; Gary Hendrickson, Fire Chief

II. PLEDGE OF ALLEGIANCE

III. APPROVAL OF AGENDA

MOTION by Van Asten, second by Crosland, to approve the agenda as presented. The motion carried unanimously.

IV. CONSENT AGENDA

A. Planning Commission Minutes for October 3, 2024

MOTION by Browen, second by Crosland, to approve the consent agenda as presented. The motion carried unanimously.

V. OPEN FORUM

Marcia Grover of 11320 Fernbrook Lane stated that she was here to remind the Planning Commission that a gas station and convenience store are not needed for the DCM project. There are already four and soon to be five gas stations within a five-mile radius of the DCM project. Four of the gas stations sell groceries.

Keith Grover of 11320 Fernbrook Lane stated that when the fields behind Dean's Manor had runoff water from heavy rain, it would go away a few days after the rain ended. During the drought this past summer, the runoff water never stopped. The property never dries out.

Lee Hallquist of 11471 Fernbrook Lane stated that the proposed location for the gas station is six minutes from three other gas stations. Two years ago, Hallquist asked about the drainage plans, and he was ignored. Hallquist is very concerned about drainage again.

Mike Netzinger of 16940 117th Avenue North where it intersects with French Lake Road came forward and stated his concern about the Dayton community being invaded by industrial traffic coming off the Dayton Parkway.

Dick Reiersen of 17520 117th Avenue North where it intersects with French Lake Road came forward and echoed Netzinger's comments. Reiersen suggested that the City use the roads that are already in place and round out the corners.

Scott Schuette of 11980 East French Lake Road asked if there are any plans to make Territorial Road and East French Lake Road a three-way stop.

VI. COUNCIL UPDATE

A. October 8, 2024, City Council Meeting

Fisher was not present to update the Commission on Council actions.

B. October 22, 2024, City Council Meeting

Fisher was not present to update the Commission on Council actions.

C. October 29, 2024, City Council Meeting

Fisher was not present to update the Commission on Council actions.

VII. PUBLIC HEARINGS

A. Recommendation for approval to Amend Interim Use Permit of an Event Center, 16900 North Diamond Lake Road (Fisher Farms)

Sevald stated that Amanda Fisher is the applicant. Fisher Farms received an Interim Use Permit in 2023 specifically for the use of tented events. The intent at that time was to amend the IUP when the applicant was ready to build a permanent structure.

Sevald stated that the applicant is proposing to build a 9,000-square-foot structure. A required stormwater pond is still under construction.

Sevald stated that there is temporary access on North Diamond Lake Road. Because it is a County Road, access could be denied if traffic increases, which will force the entrance onto Lawndale.

DeMuth asked if there are any known complaints regarding the IUP since it was granted in 2023. Sevald stated that he is not aware of any officially filed complaints.

DeMuth opened the Public Hearing at 6:50 p.m.

Tom Olson of 11 Gaywood Drive came forward and stated his support for Mike and Amanda Fisher. Olson stated that the Fishers are good at what

they do, and they serve the community well. Olson stated that Fisher Farm does not compete with Magnus.

Chris Covington of 14051 Lawndale Lane North came forward and raised his concern about the potential noise level associated with a permanent structure being put in place.

Terry Kraemer of 14281 Lawndale Lane North stated that he has never met the Fishers. Kraemer thinks the building is a great idea because it will keep the property looking like a farm in the country and that is much more appealing than looking out the window to see 60 or more houses.

DeMuth closed the Public Hearing at 7:03 p.m.

DeMuth invited the applicant to come forward.

Van Asten asked about the availability of handicapped parking accessibility. Fisher explained her plan.

Van Asten asked if there had been any flooding issues onto North Diamond Lake Road. The answer is no.

Van Asten asked why there aren't more women's stalls for the restrooms. Fisher stated that the restrooms are a work in progress.

Fisher explained that the plumbing needed for restrooms and a commercial kitchen of some sort is still a work in progress.

Browen raised concerns about the potential to expand the parking area.

Crosland asked Fisher to explain her plan for noise control.

Fisher requested that the outdoor amplified music be expanded to 10:00 p.m. on Friday evening and Saturday evening. The way it is currently written, there should be no amplified music outside after 8:00 p.m. every day.

Additional discussion ensued regarding the stormwater pond.

Van Asten asked where the new septic tank would be installed. The answer is to the north of the structure, and it will consume almost a full acre of property.

Browen asked what Fisher believes the maximum number of parking stalls needed would be.

Fisher stated that the current parking is sufficient for an event. Overflow parking is necessary when a festival is in progress.

Van Asten asked if the overflow parking will remain grass, or will a crop be planted in it during the “off-season.” Fisher stated that it will remain a dedicated grass field.

Crosland asked about the colors for the barn and the roof. Fisher stated that the barn will be red, and the roof will be white.

Browen reiterated his concern for parking. He believes 1.5 acres is not enough land for parking, especially if the lot is not stripped.

Browen raised concern about outside amplified music until 10:00 p.m. every Friday and Saturday evening.

DeMuth asked Fisher to define the specific weekends that would have amplified music outside until 10:00 p.m.

Van Asten stated that she is opposed to all outside amplified music after 8:00 p.m.

There was consensus amongst the Commissioners that Fisher could apply for exceptions, if needed.

DeMuth stated that there must be an easement in place if the western parcel of Fisher’s land is sold so that the driveway remains in perpetuity.

MOTION by Crosland, second by Van Asten, to recommend approval to amend Interim Use Permit of an Event Center, 16900 North Diamond Lake Road (Fisher Farms) with the condition that there will be no outside amplified noise after 8:00 p.m. unless a special event permit is pulled and an easement is provided if the western parcel is sold. The motion carried unanimously.

B. Recommendation of Acceptance of Dayton Parkway Master Plan

Shay came forward and stated that the City initiated an effort to create an area plan to guide the next Comprehensive Plan update that will be due in 2028. No changes are being proposed for the Comprehensive Plan at this time. The Master Plan will provide direction for how the City expects future

development to occur. The Master Plan will inform the future alignment of Dayton Parkway as well as future street connections and street design. The Master Plan will reevaluate land uses in the study and recommend modifications to better reflect the City's vision. The Master Plan will provide guidelines for the type and style of development.

Shay stated that on June 27, 2023, the work effort for the Master Plan was approved. On September 7, 2023, the Planning Commission had a Work Session. On October 23, 2023, a six-week-long online survey was posted. On November 29, 2023, a Landowner Open House was held. On March 7, 2024, a draft of the Master Plan was presented to the City Council. On May 2, 2024, a Joint Work Session was held between the Planning Commission and the City Council. On June 11, 2024, there was a presentation for the City Council. On August 27, 2024, there was another Joint Work Session between the Planning Commission and the City Council. On October 15, 2024, a second Open House was held to present the draft of the Master Plan.

Shay shared numerous slides and then stated that the City Council is tentatively scheduled to review and approve the Dayton Parkway Master Plan at the November 26, 2024, City Council Meeting.

DeMuth asked what the cost was for the Master Plan. The answer is \$45,000.

DeMuth opened the Public Hearing at 7:57 p.m.

Scott Schuette of 11980 East French Lake Road came forward and stated that he doesn't feel very respected by the Planning Commission. There are property owners who have invested decades and hundreds of thousands of dollars along with their lives into their properties. Rather than relying on what the property owners have told you, you relied on an online survey where people asked for a Starbucks. Schuette stated that an environmentally friendly swath of property is going to be taken, millions of dollars will be expended, and then there will be some islands placed in the parking lots so that the City can claim that it is environmentally friendly.

Schuette asked if there is a single modification to the Master Plan Map that is the direct result of input from property owners.

DeMuth stated that he would like to know the answer to that question too.

Lee Hallquist of 11471 Fernbrook Lane came forward and asked why there wasn't a gas station proposed for the project.

Marcia Grover of 11320 Fernbrook Lane came forward and gave a history of Maple Grove and their parking ramps. Grover asked what the plan is for parking ramps.

Jackie Bruss of 16020 117th Avenue stated that she only knows of one person who received the survey. There was no indication that the survey was going to be coming out. Bruss asked is there is a copy of the survey along with the results of it.

Bruss had numerous concerns about the proposed location of the Fire Station and the increased taxes potentially associated with the new ladder truck and Fire Station.

Bruss stated that the landowners have been left out of the discussion, yet they were heavily taxed because of the potential increase in their tax value because of the Dayton Parkway.

Marcia Grover of 11320 Fernbrook Lane came forward and stated that other local cities recommend the Dayton Parkway as an alternate route for the Brockton road closure because it is a brand-new road.

DeMuth closed the Public Hearing at 8:07 p.m.

Additional discussion ensued regarding the proper advertisement of the survey for the Master Plan that was posted in October of 2023.

DeMuth apologized on behalf of the City for not purchasing a piece of property that was for sale that could have been used to save other properties for the purpose of connecting to Zanzibar.

DeMuth stated that the Master Plan only offers potential uses for the property, not specific uses.

DeMuth stated that the Master Plan should be further expanded because it doesn't capture all of the potential traffic problems.

Van Asten stated that the Master Plan is confusing to her because there are other more pressing issues in Dayton. Van Asten believes that the roads need to be figured out before figuring out the land use.

Van Asten stated that this is a giant waste of time and money, and she doesn't like any of it.

Browen stated that he's been very against having a Master Plan.

Crosland stated that well-planned cities take time, and you have to start somewhere. This Master Plan is a couple of iterations in, but it is also a long way off.

DeMuth stated that the plan is garbage, and the City made a foolish decision to bring the Dayton Parkway all the way to 117th Avenue, and we need to reevaluate it. DeMuth stated that the Master Plan needs to be thrown out. DeMuth stated that it was a waste of \$40,000 and he could have drawn it up in a matter of minutes.

DeMuth re-opened the Public Hearing at 8:25 p.m.

Patricia Netzinger of 16940 117th Avenue North stated that five years ago she had a special tax assessment of \$26,000 because her property was supposed to be so much more valuable. Last summer, the Fire Department came in and offered to purchase her property for the tax value only. Netzinger stated she is terribly frustrated.

Kathy Powers of 11461 Fernbrook Lane came forward and stated that the Planning Commission is more interested in getting everything developed in Dayton. Powers stated that the Planning Commission needs to make a plan for the roads and not be "willy-nilly" about it.

Kyle Johnson of 15262 116th Avenue North came forward and stated that he and his neighbors in Brayburn Trails believe the new Fire Station is being rushed.

Stephanie Johnson of 17100 117th Avenue North came forward and stated she was nearly sucked into the backdraft of a big tractor-trailer while taking her garbage out to the curb. The speed of most trucks far exceed the speed limit.

Mike Netzinger of 16940 117th Avenue North where it intersects with French Lake Road came forward and stated that the reason the Dayton Parkway was put in its specific location is because the Cubes needed a road to their new facility. Netzinger suggested that if the Planning Commission is looking for a place to put the Fire Department, maybe it should go on the property directly across from the Cubes.

DeMuth closed the Public Hearing at 8:37 p.m.

Sevald stated that the project area is what it is. The blue square is identified as a public purpose, but not necessarily a Fire Station. It could be a park, City Hall, a school, etc. The City purchased that property with the intention of a Fire Station, but that could change. The Planning Commission is being asked to recommend the acceptance of this Master Plan. If the Planning Commission is not comfortable with the Master Plan as it is presented, the Planning Commission has the option to make changes to the Master Plan before it is sent to the City Council.

DeMuth stated that the Master Plan was brought in front of the Planning Commission only two times, and it was not a collaborative effort between the Planning Commission and the City Council.

DeMuth stated that solving transportation issues need to come before looking at land use. Transportation needs to go beyond what is shown in the current Master Plan.

DeMuth stated that just because a roadway is in place today, doesn't mean that it can't be done better.

Brown stated that there are some good things about the Master Plan but he's struggling with the idea of recommending approval of it. Brown stated that someone made a mistake and there was a lot of money spent. Brown stated that the Dayton Parkway must connect to Zanzibar.

When the Old Village Plan came forward, Brown was disappointed that it got shoved through and approved because he thought it was crap too. If a plan is going to be approved, let's believe in it.

Van Asten stated that she likes some of the architectural designs. Van Asten does not like the physical location of the design. There are good things in the design, but they would be better in the Old Village.

Van Asten stated that there needs to be a decision regarding the roads. Are the roads for Dayton residents, or are the roads for people who only want to bypass Dayton? The Transportation Plan has to come first.

Crosland stated that there is value in every study. There is a lot to learn from this, and Crosland appreciates all the hard work that has been put into the Plan.

Sevald offered some of his personal interpretations.

Sevald stated that he heard the Commissioners give direction to go back to where the process began two years ago and focus on how to connect Dayton Parkway to Zanzibar.

Sevald stated that he heard the Commissioners give direction to move the Town Center to an area that is less populated.

Browen stated that he doesn't believe the Town Center is horrible because there will be a main thoroughfare. The degree of stuff around the Town Center is the problem that Browen sees.

DeMuth stated that it is necessary to take a step back and simply focus on how to get from Zanzibar to Dayton Parkway, not at 117th Avenue but at the roundabout.

Sevald spoke on behalf of the City Council and stated that the position is that the Development of the Master Plan isn't going to move forward without willing property owners selling their land.

Additional discussion ensued.

Sevald stated that if the City doesn't have a vision for future development, the developers are going to choose for the City.

Additional conversation ensued.

MOTION by Van Asten, second by Crosland, to reject the Dayton Parkway Master Plan. The motion carried unanimously.

C. Recommendation for Approval/Denial of Variance for Signage, 17950 Maple Court (Kwik Trip)

Stensgard came forward and stated the applicant is Matthew Lepke of Kwik Trip, Inc. The request is to provide an 80-foot-tall pylon sign. The Code allows for only a 25-foot sign. The applicant requests that the sign be 225 square feet in area. The Code allows for 64 square feet. The Code standard is that the sign be located at the primary entrance. The applicant is requesting that it be located elsewhere and within a drainage and utility easement.

Stensgard provided an overview of the Variance to the Sign Ordinance and some documentation as to the reasonability of Kwik Trip's request.

Stensgard stated that the Planning Commission is asked to consider if the applicant's rationale for the Variance is warranted, and does the Variance impact the character of the corridor. Staff recommends denial.

DeMuth asked if the Variance is only related to the Kwik Trip sign. The answer is yes, for the free-standing sign in the southeast corner of the property.

DeMuth opened the Public Hearing at 9:14 p.m.

Kieth Grover of 11320 Fernbrook Lane came forward and stated that it is so ugly to see billboards and signage when approaching Dayton from the highway. Grover stated that Kwik Trip knew what the rules were, and he doesn't believe the City should bend over backward to accommodate them.

DeMuth closed the Public Hearing at 9:17 p.m.

Matthew Lepke of 1625 Oak Street in Lacrosse, WI came forward and stated that Kwik Trip had a sign survey company perform a survey at the Kwik Trip site.

Lepke stated that when driving by the proposed sign, it isn't much taller than the streetlights.

Lepke stated that the survey company recommended a 125-foot sign. Kwik Trip didn't propose that because it wouldn't fit into the area (cosmetically). The 50-foot sign that was recommended by Staff could not be seen until the traveler passed the exit ramp.

Lepke showed multiple images of the sign's scale as seen from the highway.

Crosland asked if there is any data that shows how much the proposed sign can drive business for Kwik Trip. The answer is no.

Van Asten stated that she doesn't usually depend on signs provided by vendors. Rather she depends on the blue highway signs.

Van Asten acknowledged that the Kwik Trip is in a "bowl," and that looking at the photographs, the sign doesn't look too large. However, looking at the drawn pictures, the sign looks very large.

Regarding the pressure that may come from other businesses desiring to have similar signs, Lepke stated that the cost factor will be the likeliest

barrier to that perceived future problem. The sign that Kwik Trip is proposing will cost about \$130,000.

DeMuth asked if anyone knew the depth of the “bowl” that the Kwik Trip is in.

Quisberg stated that the height of the streetlight pole is 40 feet high and at an elevation of about 950 feet, which puts that light fixture up to about 990 feet. The proposed Kwik Trip sign is about 930 feet, with the proposed height of 80 feet high, which puts it at 1010 feet high. The sign would be about 20 feet higher than the streetlight.

DeMuth stated that he knows it isn’t practical but is there anything that would prevent Kwik Trip from bringing in 30 feet of fill and put the sign on top of it. Sevald stated that Kwik Trip could legally do that.

DeMuth stated that the applicant has identified enough hardship and DeMuth is in favor of granting the Variance.

Browen asked if the other sign, not the one that is the focus of this discussion, could be lowered.

Stensgard stated that the standard height for a monument sign per Dayton’s code, is eight feet high.

Crosland stated that he understands the need for the taller sign on the highway, but he’d like to see the sign on Dayton Parkway be smaller and in keeping with a monument.

Lepke stated that he’d not opposed to a monument, as long as people on both sides of the road can see it.

Additional discussion ensued.

MOTION by Browen, second by Crosland, to recommend approval of the proposed Variance for Signage, 17950 Maple Court (Kwik Trip) with the condition that Kwik Trip present two options for the monument sign at the entrance. The motion carried unanimously.

D. Recommendation for Approval of Comprehensive Plan Amendment, Zoning Map Amendment, Planned Unit Development, Preliminary Plat of Parkway Neighborhood (WME Real Estate Holdings)

Sevald came forward and stated that the applicant is Michael Elzufon of WME Real Estate Holdings. In January of 2024 the project was tabled because an EAW was needed.

Sevald stated that the Planning Commission will have to “un-table” the matter and re-open the Public Hearing.

The project encompasses about 51 acres, but it is complicated by numerous wetlands and floodplains. Sevald went through the entirety of the project background, which is included in past Planning Commission Minutes and past City Council minutes. Sevald stated that there is a billboard on the property. Sevald would like direction from the Commission as to whether to allow the billboard to remain or to remove it.

Sevald requested guidance from the Commission with regard to tree preservation on the property.

MOTION by Browen, second by Crosland, to un-table the project. The motion carried unanimously.

DeMuth opened the Public Hearing at 10:05 p.m.

No one was present for the public hearing.

DeMuth closed the Public Hearing at 10:05 p.m.

The applicant came forward and stated that when he was present in January of 2024 and discussing the parking, we agreed to have some larger parking stalls along the perimeter of the parking lot for larger vehicles.

The applicant stated that the plan is to break ground in the spring on the first apartment complex, and he plans to be back before the Planning Commission on December 31, 2024, with the second Plat application. The applicant went on to describe the project in detail. The descriptions are included in previous Planning Commission and City Council Minutes.

Van Asten commented on the number of additional trees in excess of what is require v/s the number of shrubs that the project is lacking. She much prefers the current ratio.

Sevald stated that most of the larger trees that are being removed are cottonwood trees. Sevald stated that there are three large oak trees that will be removed because they are directly in the middle of the road.

Browen stated that Staff had a recommendation that the EV charging stations are not located in the garage. Browen does not believe it should be a condition.

Ben Delwiche of Kaas Wilson Architects came forward and stated that it is standard that the EV charging stations are installed in garages.

DeMuth asked about the density counts as it relates to the wetlands and floodplains. Sevald stated that the density will go in the favor of the City.

Crosland asked about the billboard. There was discussion about it, but it is not shown in any of the renderings.

The applicant stated that even though he owns the land that the billboard in attached to, the billboard itself is considered a separate entity.

Browen asked if the land below the billboard needs to be platted or does it require an easement.

Additional conversation ensued.

Van Asten stated that she really appreciates all the efforts of preservation by the developer.

Browen stated that he believes the parking proposed by the applicant will be just fine because he believes that the Dayton Parking Code is onerous. Browen stated that if the parking were based on bedrooms rather than units, there is plenty of parking in the renderings.

Browen does not agree with Staff's recommendation to make the walking paths inside the neighborhood meandering because it adds unnecessary cost to the project.

Sevald stated that he made that comment because people are not necessarily fond of walking in straight lines.

DeMuth stated that he'd rather be over rather than under with regard to the parking because of the snow storage.

Browen complemented the applicant on the renderings and the mix of units.

DeMuth asked the applicant to consider school busses when planning the roads for adequate turn-around-space.

Delwiche stated that the roads are sized for fire trucks.

Sevald gave a list of several conditions.

MOTION by Brown, second by Crosland, to recommend approval of the Comprehensive Plan Amendment, Zoning Map Amendment, Planned Unit Development, Preliminary Plat of Parkway Neighborhood (WME Real Estate Holdings) with the conditions that were agreed to. The motion carried unanimously.

E. Recommendation of Approval of Zoning Map Amendment and Preliminary Plat of Territorial Grove (Pulte)

Sevald stated that there is a pipeline that cuts through the property diagonally and complicates matters. The developer is addressing the concern by making it a trail corridor.

Dean Lotter, Director of Land Planning and Entitlement with Pulte Homes, located at 1650 West 82nd Street, Suite 300 in Bloomington, MN came forward with Paul Hoyer to give their presentation to the Planning Commission.

Lotter stated that a few changes were made, based on the recommendations of the Planning Commission. The tot lot has been removed and replaced with a pickleball court. The homes in Territorial Grove will complement the existing Territorial Trail neighborhood. The issues of trail connectivity, private amenity, open space and Park Dedication Fees have all been addressed. There will be a lit entrance monument. The landscaping along the perimeter of the neighborhood will be enhanced. Homes will comply with the architectural performance standards. Lotter stated that Pulte intends to have the Territorial Grove HOA join the existing HOA from Territorial Trails.

In order to make the project more successful, Lotter requests that the City allow the neighborhood to connect to East French Lake Road as shown in the Site Plan. Eliminating this access makes the project less efficient. Moving the access makes the project even more inefficient.

Lotter also requested that the City allow the Olson property to keep driveway access on Territorial Road. Concept planning initially concluded it was feasible to connect to the property internally. Sizing of the storm pond that sits between the Olson home and the cul-de-sac has changed to comply with stormwater rules further complicates an internal driveway connection. Territorial is a minor collector.

Browen asked Quisberg to share his thoughts on the request to allow the Olson driveway to feed onto Territorial Road.

Quisberg stated that Territorial Road is a collector road, and the City would like to see as many connections as possible severed.

Additional discussion ensued and several scenarios were considered. The conversation shifted to the use of the easement.

DeMuth opened the Public Hearing at 11:04 p.m.

Scott Schuette of 11980 East French Lake Road came forward and expressed concern about the safety of the intersection at Territorial Road. Schuette believes it would be a good idea to have a three-way stop at Territorial Road where it intersects with East French Lake Road.

Crosland asked if Territorial Road is a City road or a County road. The answer is City.

Crosland asked who is responsible for the stop signs. The answer is the City.

DeMuth asked Quisberg if he could explore some traffic control at that intersection. The answer is yes.

DeMuth closed the Public Hearing at 11:07 p.m.

MOTION by Browen, second by Crosland, to recommend approval of Zoning Map Amendment and Preliminary Plat of Territorial Grove (Pulte) as presented. The motion carried unanimously.

F. Recommendation of Approval of Ordinance 2024-__ Amending City Code XXXX Regarding Cannabis

G. Recommendation of Approval of Ordinance 2024- __ Amendment City Code 1001.20 Regarding Signage

MOTION by Browen, second by Van Asten, to table Items F and G. The motion carried unanimously.

VIII. NEW BUSINESS

None.

IX. NOTICES AND ANNOUNCEMENTS

A. Staff Updates

Sevald stated that the next Planning Commission meeting is scheduled for December 5, 2025, which coincides with HoliDayton. Sevald asked if the Commission would like to postpone the meeting until December 12, 2024.

DeMuth is not available. Stensgard suggested Wednesday, December 4, 2025. Van Asten is not available on Wednesdays. Crosland is available on both days.

Additional discussion ensued.

There was consensus to schedule the next Planning Commission Meeting on December 12, 2024.

Sevald stated that the January 2, 2025, Planning Commission Meeting will need to be changed.

Additional discussion ensued.

There was consensus to meet on January 9, 2024.

X. ADJOURNMENT

MOTION by Crosland to adjourn, Van Asten seconded the motion. Motion carried unanimously. The meeting adjourned at 11:15 p.m.

Respectfully submitted,

Sandra Major, Recording Secretary
TimeSaver Off Site Secretarial, Inc

ITEM:

Consideration of Approval of an Amendment to the Zoning Ordinance regarding Cannabis Businesses

PREPARED BY:

Hayden Stensgard, Planner II

BACKGROUND/OVERVIEW:

The Minnesota Legislature passed a law in 2023 legalizing adult-use cannabis statewide, giving certain authority to municipalities and counties related to zoning and registration. Cities and counties are tasked with adopting provisions in their respective zoning ordinances regarding time, place and manner for the adult-use cannabis business practices identified in [MN Statute 342](#). The State of Minnesota's Office of Cannabis Management (OCM) has stated they will be prepared to begin issuing business licenses after January 1, 2025.

In September, staff brought this item to the Planning Commission and City Council for discussion and feedback regarding the eventual zoning ordinance amendment adoption, with the goal to have the ordinance established by January 1, 2025. Staff has since reviewed recommendations made by both bodies, and incorporated them into a draft ordinance for review and consideration for adoption.

CRITICAL ISSUES:

1. Adopting a zoning ordinance amendment regulating cannabis businesses specific to time, place, and manner before January 1, 2025.

ANALYSIS

Land Use & Zoning

Local governments have the authority to adopt a local ordinance regarding cannabis businesses related to time, place, and manner. State statute requires that the City must allow all license types somewhere within its jurisdiction.

With the attached draft of the cannabis zoning ordinance, staff listed the allowable areas, and to what capacity (permitted or conditional use) to reflect where similar uses are currently allowed in Dayton. Examples include retail locations for cannabis businesses are allowed where liquor stores and tobacco retail are allowed, cannabis manufacturers would be allowed where manufacturing is currently allowed, etc. The draft incorporates the Commission and Council's direction that if parcels are being utilized for cannabis-related operations, the use should be confined to the space within the building on-site, eliminating any issues with site pollution or things of the like. Specific direction identified by both the Planning Commission and City Council included the following:

- The Planning Commission recommended that retail locations be permitted conditionally to start, providing the City the ability to thoroughly consider initial requests. As reviews are conducted, new items to be addressed may come to light and then can be incorporated into the ordinance, potentially allowing them as permitted.
- The City Council's preference was to not allow cannabis related home occupations.
- The City Council also preferred that the buffer requirement for liquor licenses be incorporated into the requirements for cannabis businesses (100 feet from a school).

- **Retail Registration Limits:** The City Council preferred that the market control the number of retail locations in town, rather than adopting a provision setting a limit.

Some considerations for municipalities regarding local ordinances include provisions addressing odor and security. The proposed ordinance includes a provision requiring an odor mitigation system for all principal use cannabis licensed businesses to mitigate odor pollution to the surrounding areas, but does not include a provision requiring certain security measures as it seems that should be left to the location to find security measures necessary for their operations to succeed.

Buffer Options

City's are allowed by statute to establish the following buffer requirements, but cannot exceed the distances noted below, established by statute.

- 1,000 feet of a school
- 500 feet of a day care facility
- 500 feet of a residential treatment facility
- 500 feet of a public park attraction regularly used by minors. Examples include playgrounds and ballfields.

Currently, the only buffer requirements Dayton enforces is the location of liquor licenses within 100 feet of a school and church. The State law does not give local authority to buffer these businesses from religious institutions. As such, the buffer requirement from school property is reflected in the draft cannabis ordinance attached. The City Council recommended the cannabis-business buffer requirements reflect those of the liquor store location requirements.

Adult-Use Areas

The law explicitly authorizes individuals to use adult-use cannabis flower and adult-use cannabis products:

- In a private residence, including the individual's curtilage or yard.
- On private property, not generally accessible by the public, unless the owner of the property prohibits the use of the products.
- On the premises of an establishment or event licensed to permit onsite consumption.
- Cannot use where smoking is prohibited under the Minnesota Clean Air Act.

Public places, such as parks and rights-of-way, are left to the discretion of the City. The City Council recently adopted an ordinance addressing the use of cannabis in public places.

Retail Registration Authority

- Allowable limits to registering retail locations (Cannabis Retail, Mezzobusinesses, Microbusinesses) except lower-potency hemp edible retailers.
 - The rule by statute is a minimum 1 location to be allowed per 12,500 must be permitted.
 - In Dayton's case, the strictest limitation would be only allowing 1 location for retail within the City limits not including lower-potency hemp edible retailers.
 - If a county has one cannabis retailer registration per 12,500 residents, a city located within the county is not obligated to register a cannabis retailer.

Through the discussion in September, the City Council was not interested in establishing a limit to retail registrations within the City. As such, the proposed ordinance does not include provisions for this. In the event that over-saturation of the market occurs within the City for retail locations, the City Council can direct staff to review these provisions and consider adding language regarding the number of retail locations allowed.

Hours of Operation

MN Statute does not allow for cannabis retail businesses to conduct operations between the time of 2:00 a.m. to 8 a.m. Monday through Saturday, and 2:00 a.m. to 10:00 a.m. on Sundays. City's do have the opportunity to further limit this to no more stringent than 10:00 a.m. and 9:00 p.m. seven days a week.

The draft ordinance does not address this, as it only refers to cannabis retail licensed businesses. As such, if the City Council is interested in adopting an ordinance to further limit the hours of operation, they would do so through the City Code amendment regulating local registration of these retail locations.

RELATIONSHIP TO CITY COUNCIL GOALS

This is not related to any specific goals of the City Council.

ROLE OF THE PLANNING COMMISSION

The Planning Commission is tasked with holding a public hearing on this matter, and reviewing and considering this amendment for adoption as is, or with changes directed by the group.

STAFF RECOMMENDATION

Staff recommends approval of the ordinance amendment. It is possible that when the OCM is finished with their rulemaking period, this ordinance may need to be amended further to comply with any changes made at the state level. The ordinance would be then brought back to the Planning Commission and City Council to address those changes, if any.

ATTACHMENTS

Draft Ordinance

Table of Uses – Cannabis-licensed Businesses (for reference)

Minnesota Office of Cannabis Management Local Government Guide

League of Minnesota Cities – Adult-Use Cannabis: What Cities Need to Know

Dayton Zoning Map

ORDINANCE NO. 2024-XX

CITY OF DAYTON

HENNEPIN AND WRIGHT COUNTIES, MINNESOTA

**AN ORDINANCE AMENDING THE DAYTON CITY CODE REGARDING CANNABIS
BUSINESSES**

THE CITY COUNCIL OF THE CITY OF DAYTON ORDAINS:

SECTION 1. AMENDMENT. Dayton City Code 1001.066 is hereby amended by adding the underlined material as follows:

1001.066 Cannabis Businesses

Subd. 1 Purpose and Intent. The purpose of this section is to preserve and protect the public health, safety, welfare, neighborhood character, and minimize negative community impacts by enacting effective regulatory and enforcement controls through minimum land use requirements for State-licensed cannabis businesses within the City of Dayton.

Subd. 2 Definitions. 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.

Subd. 3 Minimum Buffer Requirements.

- (1) The City of Dayton shall prohibit the operation of a cannabis business within 100 feet of a school measured from nearest property boundaries.
- (2) Pursuant to Minn. Stat. 462.367 subd. 14, nothing in this section shall prohibit an active cannabis business from continuing operation at the same site if a school moves within the minimum buffer zone.

Subd. 4 Zoning and Land Use.

(1) All cannabis-related Uses shall adhere to the following standards:

- a. All cannabis licensed businesses and properties within the City of Dayton shall adhere to the guidelines established by Minn. Stat. 342 and the standards within this section.
- b. The facility shall display its state issued license on the interior of the facility, visible to the public, at all times.

- c. At the facility, any and all cultivation, manufacturing/processing, storage, display, sales or other distribution of cannabis shall occur within an enclosed building and shall not be visible from the exterior of the building.
- d. All principal use cannabis licensed facilities shall have an odor mitigation system installed to eliminate or lessen any potential odor pollution created at the facility.
- e. No person or facility shall dispose of cannabis or cannabis-containing products in an unsecured waste receptacle not in possession and control of the licensee and designed to prohibit unauthorized access.
- f. Outdoor storage is prohibited for all cannabis-related uses herein.
- g. No cannabis or paraphernalia shall be displayed or kept at the facility so as to be visible from outside the premises.
- h. No cannabis or lower-potency hemp business shall be allowed within any residential zoning districts.
- i. Home Occupations and Home-Extended Businesses for all cannabis and lower-potency hemp licensed operations are prohibited.
- j. Signage for such businesses shall be guided by Section 1001.20 of the Dayton City Code.

(2) Cannabis Cultivation. Cannabis businesses licensed or endorsed for cultivation (medical or recreational) are allowed as a permitted principal use in the following zoning districts:

- a. A-1 (Outdoor Cultivation Only)
- b. I-1 (Indoor Cultivation Only)
- c. I-2 (Indoor Cultivation Only)

(3) Cannabis Delivery Service.

- a. Cannabis businesses licensed for delivery service are allowed as a permitted principal use in the following zoning districts:

- 1. B-4

2. I-1

- b. Accessory Use. Cannabis businesses licensed for microbusiness, mezzobusiness, retail, medical cannabis combination business, transportation, or wholesale, can obtain a license or endorsement for delivery service as an accessory use at that same location.

(4) Cannabis Manufacturer.

- a. Cannabis businesses licensed or endorsed for cannabis manufacturer (recreational or medical) are allowed as a permitted principal use in the following zoning districts subject to manufacturing-specific standards established in the Zoning Ordinance:

- a. I-1
b. I-2

(5) Cannabis Mezzobusiness.

- a. Cannabis businesses licensed or endorsed for cannabis mezzobusiness are allowed as a conditional principal use in the following districts.

1. B-4
2. I-1
3. I-2

- b. Cultivation as part of a cannabis mezzobusiness shall not occur outdoors.

(6) Cannabis Microbusiness.

- a. Cannabis businesses licensed or endorsed for cannabis microbusiness are allowed as a conditional principal use in the following districts.

1. B-4
2. I-1
3. I-2

- b. Cultivation as part of a cannabis microbusiness shall not occur outdoors.

(7) Cannabis Retail. Cannabis businesses licensed or endorsed for cannabis retail (medical or recreational) are allowed as a conditional principal use in the following districts:

- a. GMU-1

- b. GMU-2
- c. GMU-3
- d. GMU-4
- e. GMU-5
- f. B-2
- g. B-3
- h. I-1

(8) Cannabis Testing Facility. Cannabis Businesses licensed or endorsed for cannabis testing facility are allowed as a permitted principal use in the following districts:

- a. B-4
- b. I-1
- c. B-P

(9) Cannabis Transportation.

- a. Cannabis businesses licensed or endorsed for transportation are permitted as a principal use in the following zoning districts:
 - 1. B-4
 - 2. I-1
- b. Accessory Use. Cannabis businesses licensed for cultivation, delivery, manufacturing, microbusiness, mezzobusiness, wholesaling, processing or testing can obtain a license or endorsement for transportation as an accessory use.

(10) Cannabis Wholesale.

- a. Cannabis businesses licensed or endorsed for wholesaling are allowed as a permitted principal use in the following districts, subject to specific standards for wholesale uses established in the Zoning Ordinance:
 - 1. I-1
 - 2. B-P
- b. Cannabis businesses licensed or endorsed for wholesaling are allowed as a conditional principal use in the following districts, subject to specific standards for wholesale uses established in the Zoning Ordinance:
 - 1. B-4

(11) Lower-potency Hemp Edible Manufacturer.

- a. Hemp businesses licensed or endorsed for lower-potency hemp edible manufacturer are allowed as a permitted principal use in the following zoning districts subject to manufacturing-specific standards established in the Zoning Ordinance:
 1. I-1
 2. I-2
- b. Accessory Use. Lower-potency hemp edible manufacturing licenses or endorsements can be obtained and operated at the same location as a Brewpub, Breweries or Microdistilleries.
- c. Lower-potency Hemp Edible Manufacturing and Cannabis Manufacturing licenses may be located on the same property.

(12) Lower-potency Hemp Edible Retailer.

- a. Lower-potency hemp edible retail businesses as a principal use are subject to the same zoning ordinance regulations as a cannabis retail principal use.
- b. Businesses where tobacco, liquor, and cannabis retail licenses are held are allowed to hold a lower-potency hemp edible retailer license as regulated by Minn. Stat. 342.

(13) Medical Cannabis Combination Business. Cannabis businesses licensed or endorsed for cultivation are allowed as a conditional principal use in the following districts.

- a. B-4
- b. I-1
- c. I-2

(14) Medical Cannabis Processor. Cannabis businesses licensed or endorsed for medical cannabis processor are allowed as a permitted principal use in the following zoning districts:

- a. I-1
- b. I-2

(15) Temporary Cannabis Events. Temporary Cannabis Events shall be subject to

Chapter 93 of the Dayton City Code regarding Large Assemblies.

- a. Temporary cannabis events shall not occur on properties zoned Residential.

Subd. 4 Local Government as a Cannabis Retailer

- (1) The City of Dayton may establish, own, and operate one municipal cannabis retail business subject to the restrictions in this chapter.
- (2) The municipal cannabis retail store shall not be included in any limitation of the number of registered cannabis retail businesses.
- (3) The City of Dayton shall be subject to all same rental license requirements and procedures applicable to all other applicants.

SECTION 2. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Adopted by the City Council of the City of Dayton this 14th day of January 2025.

Mayor Dennis Fisher

ATTEST:

Amy Benting, City Clerk

Principal Cannabis Uses by District																												
Use Types “P” = Permitted “C” = Conditionally Permitted “I” Interim Permitted “A” Accessory Permitted	Zoning Districts																										Additional Requirements (Section References)	
	A-1	A-2	S-A	R-1	R-1A	R-2	R-3	R-E	R-M	R-H	R-MH	R-O	GMU-1	GMU-2	GMU-3	GMU-4	GMU-5	V-M	P-R	B-1	B-2	B-3	B-4	I-1	I-2	B-P		
Cannabis Cultivator	P*																								P**	P**		*Outdoor Only **Indoor Only
Cannabis Delivery Service																								P	P			Permitted Acc. Use to Microbusiness, Mezzobusiness, Retail, Transportation, Wholesale and Medical Cannabis Combination Business
Cannabis Event Organizer																												See City Code Section 93: Large Assemblies
Cannabis Manufacturer																									P	P		
Cannabis Mezzobusiness																									C	C	C	Indoor Cultivation Only
Cannabis Microbusiness																									C	C	C	Indoor Cultivation Only
Cannabis Retailer													C	C	C	C	C					C	C		C			Includes Medical Retail
Cannabis Testing Facility																								P	P		P	
Cannabis Transporter																								P	P			Permitted Acc. Use to Cultivation, Manufacturing, Microbusinesses, Mezzobusinesses, Wholesaling, Processing, and Testing.
Cannabis Wholesaler																								C	P		P	
Lower-potency Hemp Edible Manufacturer																									P	P		Accessory Use to Brewpubs, Breweries, and Microdistilleries
Lower-Potency Hemp Edible Retailer													C	C	C	C	C					C	C		C			Permitted Accessory to locations with active liquor, tobacco or cannabis retail license

Cannabis Uses by District																											
Use Types “P” = Permitted “C” = Conditionally Permitted “I” Interim Permitted “A” Accessory Permitted	Zoning Districts																										Addition Requirements (Section Reference)
	A-1	A-2	S-A	R-1	R-1A	R-2	R-3	R-E	R-M	R-H	R-MH	R-O	GM U-1	GM U-2	GM U-3	GM U-4	GM U-5	V-M	P-R	B-1	B-2	B-3	B-4	I-1	I-2	B-P	
Medical Cannabis Combination Business																							C	C	C		
Medical Cannabis Processor																								P	P		



A Guide for Local Governments on Adult-Use Cannabis



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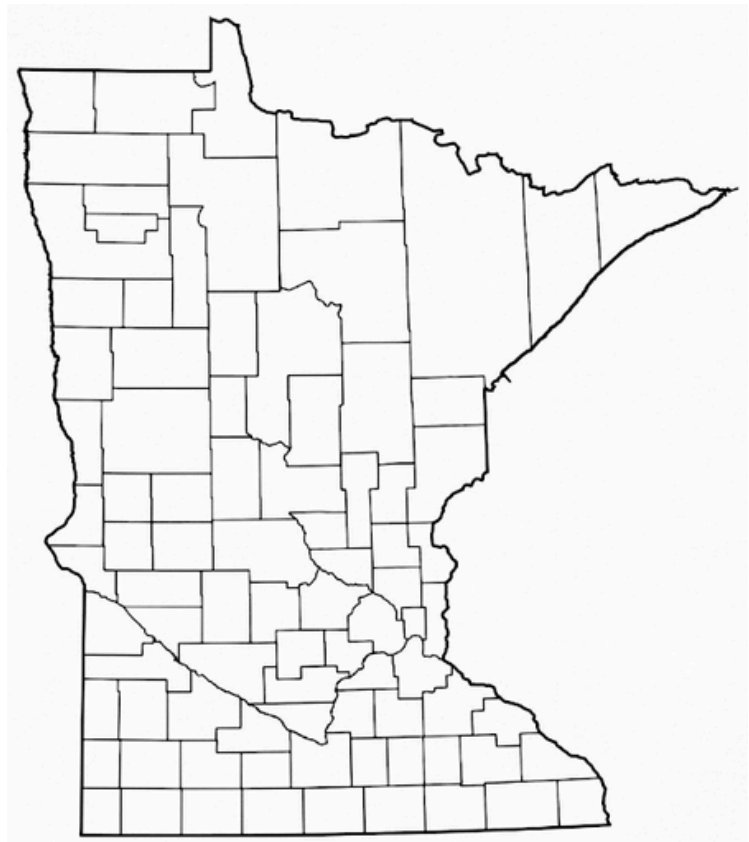
Introduction

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.



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)

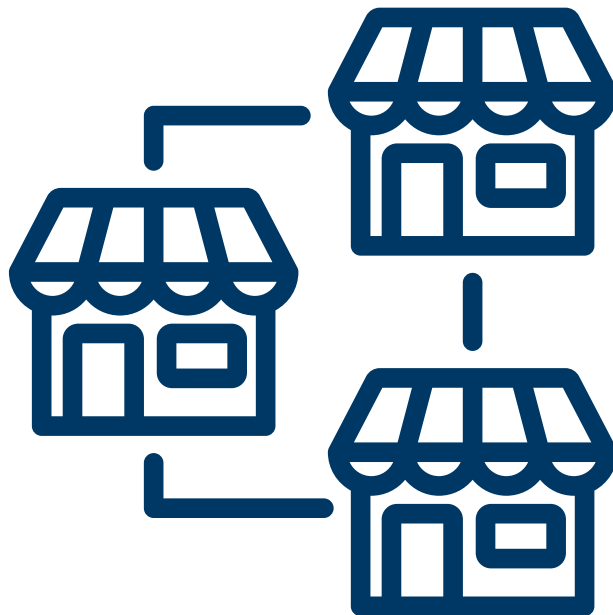
Local governments may prohibit retail sales of cannabis between the hours of 8 a.m. and 10 a.m. Monday-Saturday, and 9 p.m. and 2 a.m. the following day.

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 products.	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	Retail 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:

- 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

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 <u>on</u> 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?				<p>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.</p> <p>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.</p>

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?				<p>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.</p> <p>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.</p> <p>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.</p> <p>That formula is as follows: $\text{Total THC} = (0.877 \times \text{THC-A}) + \text{d-9 THC}$</p> <p>Raw flower must include a certificate of analysis to show testing below 0.3% delta-9.</p> <ul style="list-style-type: none"> A lack of a certificate of analysis would constitute an illegal sale.

Question	Yes	No	Comments	Additional Information
				<ul style="list-style-type: none"> 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 \(www.health.state.mn.us/people/cannabis/edibles/complaints.html\)](http://www.health.state.mn.us/people/cannabis/edibles/complaints.html).

Appendix C: Enforcement Notice from the 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.

A handwritten signature in black ink, appearing to read "Charlene Briner", with a long horizontal flourish extending to the right.

Charlene Briner
Interim Director
Office of Cannabis Management

Appendix D: Notice to Unlawful Cannabis Sellers

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 \(www.revisor.mn.gov/statutes/cite/342\)](http://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 \(www.revisor.mn.gov/statutes/cite/342.09#stat.342.09.4\)](http://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 \(www.revisor.mn.gov/statutes/cite/342.09#stat.342.09.6\)](http://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 \(www.revisor.mn.gov/statutes/cite/342.19\)](http://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 \(www.revisor.mn.gov/statutes/cite/342.19#stat.342.19.2\)](http://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 \(www.revisor.mn.gov/statutes/cite/152.0264\)](http://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 \(www.revisor.mn.gov/statutes/cite/151.72\)](http://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.

Adult-Use Cannabis: What Cities Need to Know

Published: June 12, 2023

Updated July 29, 2024

A new law enacted at the end of the 2023 legislative session and amended during the 2024 legislative session legalized adult-use cannabis in Minnesota and established a regulatory framework over the cannabis industry. Since the enactment of the law, the League of Minnesota Cities has been researching and collecting information from state agencies and stakeholders to answer questions pertaining to local regulatory authority, law enforcement, taxing, and employment.

[Read the full law](#)

The following frequently asked questions (FAQs) aim to provide information to cities about the new law to assist local governments in making decisions related to the law. The League will continually update this information as necessary.

Get answers to FAQs regarding the new law on adult-use cannabis

General information

[Q1. What does the new law do?](#)

[Q2. How much cannabis can a person legally possess?](#)

[Q3. Are cannabis products legal under federal regulations?](#)

[Q4. Can a person grow their own cannabis?](#)

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[Q10. Can my city have a municipal cannabis retail store?](#)

[Q11. Can a retailer sell cannabis seeds for home growth of cannabis?](#) *(added Aug. 1, 2023)*

Taxation and revenue

Q12. How will these new products be taxed?

Q13. Can our city impose its own cannabis tax?

Q14. Do sales taxes apply?

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Q21. Can a person still be charged with possession of cannabis products?

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Q23. Can a person be charged with a crime for cultivating cannabis?

Q24. Can a person be charged with a crime for using cannabis in public?

Q25. How do our officers determine if a driver is under the influence of adult-use cannabis?

Q26. Is it a crime to use cannabis products while operating a motor vehicle?

Q27. Is it a crime to possess cannabis products in a motor vehicle?

Q28. Could cities prohibit the sale of adult-use cannabis entirely?

Q29. Is our city required to adopt regulations under the new law?

Q30. Are prior convictions for cannabis use expunged and what is the city’s role in that process?

Q31: Can a city prohibit the use of cannabis in public places? (added Aug. 1, 2023)

Q32: Can our city ban the smoking of cannabis in public places? (added Aug. 1, 2023)

City regulation

Q33. Can the city require sellers to have a city-issued license?

Q34. When is our city required to issue retail registration to a cannabis retail business?

Q35. Can a retail registration issued by our city be transferred?

Q36. Is our city required to conduct compliance checks on businesses with a cannabis retail registration?

Q37. Can our city charge a fee for a cannabis retail registration?

Q38. Can my city limit the number of cannabis retailer licenses issued in our city?

Q39. How does this impact my city's existing license for THC products?

Q40. Can edible cannabinoid products be sold for on-site consumption?

Q41. Will I be able to prohibit cannabis events in my city?

Q42. How does this impact my city's existing THC license program?

Q43. How does the new law impact my city's existing THC moratorium?

Q44. Can the city's zoning regulation restrict where a business can operate?

Q45. Can cities adopt a moratorium prohibiting the sale, manufacturing, or distribution of adult-use cannabis to study the issue?

Q46: What if my city has complaints about a licensed cannabis business?

Q47: Can a city deny a liquor license if they find that the business is selling cannabis or low-potency hemp products without a license?

Q48. Can a city suspend or revoke a tobacco license if they find that they are selling cannabis or low-potency hemp products without a license?

City employment and personnel issues

Q49. Does the new law allowing adult-use cannabis change anything about how we do drug testing for CDL holders?

Q50. Does the new law change anything related to employees who carry a firearm?

Q51. Besides positions requiring a CDL or carrying a firearm, are there any other positions which are not affected by the new law?

Q52. Can we still prohibit employees from being under the influence of cannabis while at work? Does the League have a model policy with updated language?

Q53. If an employee is injured while being under the influence of cannabis at work, are they still entitled to workers' compensation benefits?

Q54. Can employees be in possession of edibles or other cannabis products while at work?

Q55. Do we need to change anything in our collective bargaining agreement (CBA) regarding discipline of employees who use cannabis products?

Q56. Can employees use cannabis products off-duty?

Q57. How does this impact the requirements of the Drug-Free Workplace Act?

Q58. Should my city continue to include cannabis as a pre-employment panel screen for my non-DOT/safety-sensitive employees?

Edible cannabinoid products

Q59. What is an edible cannabinoid product? (added Aug. 1, 2023)

Q60. What are the labeling requirements for edible cannabinoid products? (added Aug. 1, 2023)

Q61. What are the restrictions on edible cannabinoid products? (added Aug. 1, 2023)

Q62. Can edible cannabinoid products be sold for on-site consumption? (added Aug. 1, 2023)

Q63. Can an exclusive liquor store sell edible cannabinoid products? (added Aug. 1, 2023)

Q64. Do retailers that sell edible cannabinoid products need to register with the state? (added Aug. 1, 2023)

Q65. Who should I contact if a retailer is selling noncompliant products in my city? (added Aug. 1, 2023)

Q66. Will LMCIT coverage apply to sales of low-potency edible products sold at a municipal liquor store? (added July 29, 2024)

Q67. Where can I find more information on edible cannabinoid products? (added Aug. 1, 2023)

General information

Q1. What does the new law do?

A1. The new law legalizes the possession, use, manufacturing, and sale of certain cannabis products within the state. It establishes the Office of Cannabis Management (OCM), which is charged with, among other things, enforcing an organized system of regulation for the cannabis industry and the hemp consumer industry. The law also:

- Establishes labor standards for the use of cannabis and hemp products by employees and testing of employees.
- Establishes expungement procedures for certain individuals previously convicted of a crime related to cannabis.

Possession, use, and home growth under this new law will be legal beginning Aug. 1, 2023, and legal sales are expected to begin in January of 2025. Various other effective dates are noted throughout these FAQs as they apply.

[Access the Office of Cannabis Management's website](#)

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Q2. How much cannabis can a person legally possess?

A2. This law allows a person of 21 years of age or older to:

- Use, possess, or transport cannabis paraphernalia.
- Possess 2 ounces or less of cannabis flower in a public place.
- Possess 2 pounds or less of cannabis flower in a person's residence.
- Possess or transport 8 grams or less of adult-use cannabis concentrate.
- Possess or transport edible products infused with a total of 800 milligrams or less of tetrahydrocannabinol.

- Give away cannabis flower and products in an amount that is legal for a person to possess in public.

The law authorizes an individual to use adult-use cannabis flower and adult-use cannabis products:

- In a private residence including the individual's curtilage or yard.
- On private property, unless the owner of the property prohibits the use of the products.
- On the premises of an establishment or event licensed to permit on-site consumption.

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Q3. Are cannabis products legal under federal regulations?

A3. Marijuana remains a Schedule I drug under federal law, meaning it is illegal, with limited exceptions, to grow, process, sell or possess marijuana from a federal standpoint.

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Q4. Can a person grow their own cannabis?

A4. The law authorizes a person to cultivate up to eight cannabis plants, of which four or fewer may be mature, flowering plants provided that it is in an enclosed, locked space that is not open to public view.

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Q5. Does the Clean Indoor Air Act apply to cannabis products?

A5. A person may not use cannabis flower, cannabis products, or hemp-derived consumer products in a manner that involves the inhalation of smokes, aerosol, or vapor at any location where smoking is prohibited under the Clean Indoor Air Act.

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Q6. What types of licenses will the OCM issue?

A6. The OCM will issue the following types of licenses:

- Cannabis microbusiness.
- Cannabis mezzobusiness.
- Cannabis cultivator.
- Cannabis manufacturer.
- Cannabis retailer.
- Cannabis wholesaler.
- Cannabis transporter.
- Cannabis testing facility.
- Cannabis event organizer.
- Cannabis delivery service.
- Lower-potency hemp edible manufacturer.

- Lower-potency hemp edible retailer.
- Medical cannabis combination business.

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Q7. Can cannabis start to be sold now?

A7. Cannabis will not be able to be sold until the Office of Cannabis Management is established and able to issue licenses. Communication from state agencies indicate an intended timeline of January 2025 for when sales will be live to the public. Before beginning sales, a cannabis retailer must obtain a local retail registration. Any business attempting to sell cannabis products before licenses are issued should be reported to the Department of Health.

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Q8. Under the new law, where can adult-use cannabis be sold?

A8. Cannabis products and hemp derived consumer products may only be sold in business with a license issued by the OCM.

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Q9. Could my city's municipal liquor store sell adult-use cannabis?

A9. The law adds edible cannabinoid products as an item allowed to be sold at exclusive liquor stores, including municipal liquor stores.

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Q10. Can my city have a municipal cannabis retail store?

A10. The new law authorizes cities to operate a municipal cannabis retail store. This is a unique opportunity for Minnesota cities and more research is needed to determine the legal ramifications of such an operation.

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Q11. Can a retailer sell cannabis seeds for home growth of cannabis?

A11. A retailer or a seed labeler may begin selling cannabis seed starting Aug. 1, 2023. Seeds must meet the state requirements for seed labeling. [More information on cannabis seeds can be found from the Minnesota Department of Agriculture \(pdf\).](#)

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Taxation and revenue

Q12. How will these new products be taxed?

A12. A tax equal to 10% of gross receipts from retail sales of taxable cannabis products will be imposed on any taxable cannabis product retailer that sells cannabis products to customers.

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Q13. Can our city impose its own cannabis tax?

A13. Cities are prohibited from imposing a tax solely on the sale of taxable cannabis products.

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Q14. Do sales taxes apply?

A14. The state sales tax and local sales taxes apply to cannabis and hemp-derived cannabinoid products.

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Q15. Who receives taxes collected from the sale of cannabis products?

A15. Revenues from the retail sales of cannabis products will be divided, with 80% going to the general fund and 20% to the local government cannabis aid account. Cities will receive 50% of the amount certified to the local government cannabis aid account.

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Q16. What is considered a “taxable cannabis product retailer?”

A16. A taxable cannabis product retailer is a retailer that sells any taxable cannabis products. This includes a cannabis retailer, cannabis microbusiness, cannabis mezzobusiness, and lower-potency hemp edible retailer. Minn. Stat § 295.81, subd. 1(s).

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Q17. How much revenue will cities receive from the local government cannabis aid fund?

A17. Half of the amount certified in the cannabis local government aid fund will go to cities. Cities will receive a distribution proportional to the number of cannabis businesses located in the city as compared to the number of cannabis businesses in all cities.

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Q18. When will cities receive revenue from the local government cannabis aid account?

A18. The gross receipts tax goes is effective for gross receipts received after June 30, 2023. The law requires the Department of Revenue to certify the amount to be paid to each city by Sept. 1, 2024, and every year after, and the full amount must be paid on Dec. 26, 2024, and every year after.

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Enforcement and public safety

Q19. How is the new law enforced?

A19. All licensing issues will be enforced by the Office of Cannabis Management. Local law enforcement may still enforce illegal possession or use crimes where applicable.

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Q20. What are penalties for someone selling edible cannabis products that do not meet the state's requirements?

A20. If a retailer is found to be selling edible cannabis products that do not meet state requirements, the Office of Cannabis Management may embargo the products and potentially destroy the products with the retailer paying for all court costs and fees, storage, and other proper expenses.

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Q21. Can a person still be charged with possession of cannabis products?

A21. Beginning Aug. 1, 2023, the following actions are considered cannabis possession crimes:

- *Possession of cannabis in the first degree.* (Punishable by imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both).
 - More than 2 pounds but not more than 10 kilograms of cannabis flower.
 - More than 160 grams but not more than 2 kilograms of cannabis concentrate.
 - Edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products infused with more than 16 grams but not more than 200 grams of THC.
- *Possession of cannabis in the second degree.* (Punishable by imprisonment for not more than one year or payment of a fine of not more than \$3,000, or both).
 - More than 1 pound but not more than 2 pounds of cannabis flower in any place other than the person's residence.
 - More than 80 grams but not more than 160 grams of cannabis concentrate.
 - Edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products infused with more than 8 grams but not more than 16 grams of THC.
- *Possession of cannabis in the third degree.* (Punishable by imprisonment for not more than 90 days or payment of a fine of not more than \$1,000, or both).
 - More than 4 ounces but not more than 1 pound of cannabis flower in any place other than the person's residence.
 - More than 16 grams but not more than 80 grams of cannabis concentrate.
 - Edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products infused with more than 1,600 milligrams but not more than 8 grams of THC.
- *Possession of cannabis in the fourth degree.* (Punishable as a petty misdemeanor).
 - More than 2 ounces but not more than 4 ounces of cannabis flower in any place other than the person's residence.
 - More than 8 grams but not more than 16 grams of cannabis concentrate.
 - Edible cannabinoid products infused with more than 800 milligrams but not more than 1,600 milligrams of THC.

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Q22. Can a person still be charged with sale of cannabis products?

A22. Beginning Aug. 1, 2023, the following actions are considered cannabis sale crimes:

- *Sale of cannabis in the first degree.* Punishable by imprisonment for not more than five years or to a payment of a fine of not more than \$10,000 or both if a person unlawfully sells more than 2 ounces of cannabis flower; more than 8 grams of cannabis concentrate; or edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products infused with more than 800 milligrams of THC:
 - To a minor and the defendant is more than 36 months older than the minor.
 - Within 10 years of two or more convictions of sale in the second or third degree.
 - Within 10 years of a conviction of first degree
- *Sale of cannabis in the second degree.* May be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both if an adult:
 - Unlawfully sells more than 2 ounces of cannabis flower; more than 8 grams of cannabis concentrate; or edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products infused with more than 800 milligrams of THC:
 - In a school zone, a park zone, or a drug treatment facility; or
 - Within 10 years of a conviction of sale of cannabis in the first, second, or third degree.
 - Unlawfully sells cannabis flower, cannabis concentrate, edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products to a minor.
- *Sale of cannabis in the third degree.* An adult may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both, if the adult unlawfully sells:
 - More than 2 ounces of cannabis flower.
 - More than 8 grams of cannabis concentrate.
 - Edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products infused with more than 800 milligrams of THC.
- *Sale of cannabis in the fourth degree.* An adult is guilty of a petty misdemeanor if they unlawfully sell:
 - Not more than 2 ounces of cannabis flower.
 - Not more than 8 grams of cannabis concentrate.
 - Edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products infused with not more than 800 milligrams of THC.

A sale for no remuneration by an individual over the age of 21 to another individual over the age of 21 is not unlawful as cannabis sale in the fourth degree.
- *Sale of cannabis by a minor.* A minor is guilty of a petty misdemeanor if the minor unlawfully sells:
 - Not more than 2 ounces of cannabis flower.
 - Not more than 8 grams of cannabis concentrate.

- Edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products infused with not more than 800 milligrams of THC.

A minor is guilty of a misdemeanor if the minor unlawfully sells:

- More than 2 ounces of cannabis flower.
- More than 8 grams of cannabis concentrate.
- Edible cannabis products, lower-potency hemp edibles, or hemp-derived consumer products infused with more than 800 milligrams of THC.

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Q23. Can a person be charged with a crime for cultivating cannabis?

A23. Beginning Aug. 1, 2023, the following are crimes related to the cultivation of cannabis.

- *Cultivation of cannabis in the first degree.* A person is guilty of cultivation of cannabis in the first degree and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person unlawfully cultivates more than 23 cannabis plants.
- *Cultivation of cannabis in the second degree.* A person is guilty of cultivation of cannabis in the second degree and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the person unlawfully cultivates more than 16 cannabis plants but not more than 23 cannabis plants.

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Q24. Can a person be charged with a crime for using cannabis in public?

A24. Beginning Aug. 1, 2023, a city may adopt an ordinance establishing a petty misdemeanor offense for a person who unlawfully uses cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place other than the following.

- A private residence including the person's curtilage or yard.
- Private property not generally accessible by the public, unless the person is explicitly prohibited from consuming cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the property by the owner of the property.
- The premises of an establishment or event licensed to permit on-site consumption.

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Q25. How do our officers determine if a driver is under the influence of adult-use cannabis?

A25. Officers will need to use the same process for determining if a person is under the influence of cannabis while operating a vehicle as they would have prior to the new law being enacted.

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Q26. Is it a crime to use cannabis products while operating a motor vehicle?

A26. It is a misdemeanor for a person to use cannabis flower, a cannabis product, a lower-potency hemp edible, a hemp-derived consumer product, or any other product containing an artificially derived cannabinoid in a motor vehicle when the vehicle is on a street or highway.

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Q27. Is it a crime to possess cannabis products in a motor vehicle?

A27. Beginning Aug. 1, 2023, a person may be charged with a misdemeanor if they possess cannabis products in a motor vehicle on a street or highway if the products meet any of the following conditions:

- Do not meet the packaging requirements set in statute.
- Have been removed from the packaging in which they were sold.
- Are in packaging that has been opened, or the seal has been broken.
- Are in packaging in which the contents have been partially removed.

It is not considered a crime if the cannabis products are in the trunk of the vehicle or in another area of the vehicle not normally occupied by the driver and passengers if the vehicle is not equipped with a trunk. A utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers.

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Q28. Can cities prohibit the sale of adult-use cannabis entirely?

A28. Cities may not prohibit the possession, transportation, or use of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products authorized by the new law.

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Q29. Is our city required to adopt regulations under the new law?

A29. Cities are not required to adopt any new regulations under the new law. However, they will be required to register retail sellers and perform compliance checks.

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Q30. Are prior convictions for cannabis use expunged and what is the city's role in that process?

A30. Certain cannabis-related convictions will be expunged by the Bureau of Criminal Apprehension. Upon receipt of a notice of expungement, cities are required to seal all records related to the expungement, including the records of the person's arrest, indictment, trial verdict, and dismissal or discharge of the case.

Certain felony convictions will be reviewed by the Cannabis Expungement Board to determine what, if any, action should be taken related to a prior conviction. Cities will be required to provide the Cannabis Expungement Board free access to records held by law enforcement agencies or prosecuting authorities.

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Q31. Can a city prohibit the use of cannabis in public places?

A31. A city may adopt an ordinance establishing a petty misdemeanor offense for a person who unlawfully uses cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place other than the following:

- A private residence including the person's curtilage or yard.
- Private property not generally accessible by the public, unless the person is explicitly prohibited from consuming cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the property by the owner of the property.
- The premises of an establishment or event licensed to permit on-site consumption.

Cities will need to work with their city attorney to craft an ordinance defining the areas where cannabis use will be prohibited.

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Q32. Can our city ban the smoking of cannabis in public places?

A32. A city may adopt an ordinance establishing a petty misdemeanor offense for a person who unlawfully uses cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place other than the following:

- A private residence including the person's curtilage or yard.
- Private property not generally accessible by the public, unless the person is explicitly prohibited from consuming cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the property by the owner of the property.
- The premises of an establishment or event licensed to permit on-site consumption.

In addition, under the Minnesota Clear Indoor Air Act, cities are authorized to adopt more stringent regulations on smoking to protect individuals from secondhand smoke or from involuntary exposure to aerosol or vapor from electronic smoking devices. Cities have used this authority to prohibit smoking of tobacco products in public areas including parks, distances from business entrances, and outdoor restaurant patios. This same authority could be used to prohibit the smoking of cannabis in those areas.

Cities should check their ordinances to determine if a prohibition on smoking tobacco products in public places would also apply to cannabis products.

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City regulation

Q33. Can the city require sellers to have a city-issued license?

A33. A city may not require additional licenses other than the cannabis licenses issued by the OCM. However, the OCM will forward applications to cities for them to certify whether the proposed cannabis business complies with local zoning ordinance and, if applicable whether the proposed business complies with the state fire and building code. The OCM may not issue a license to a cannabis business that does not meet local zoning and land use laws.

Before a cannabis business begins making retail sales, it will be required to register with the city in which it is located.

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Q34. When is our city required to issue retail registration to a cannabis retail business?

A34. A city is required to issue a retail registration to a cannabis microbusiness with a retail operations endorsement, cannabis mezzobusiness, cannabis retailer, medical cannabis combination business operating a retail location, or lower-potency hemp edible retailer that:

- Has a valid license or license preapproval issued by the OCM.
- Has paid the registration fee.
- Is found to be in compliance with the requirements of the applicable state laws through a preliminary compliance check performed by the city.
- Is current on all property taxes and assessments at the location where the retail establishment is located.

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Q35. Can a retail registration issued by our city be transferred?

A35. Retail registration may not be transferred.

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Q36. Is our city required to conduct compliance checks on businesses with a cannabis retail registration?

A36. Cities will be required to conduct compliance checks on retail cannabis businesses with a retail registration by the city. The OCM will develop standardized forms and procedures for these compliance checks.

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Q37. Can our city charge a fee for a cannabis retail registration?

A37. A city may impose an initial retail fee of \$500 or up to half the amount of the applicable initial license fee charged by the OCM, whichever is less. The city may also charge a renewal retail registration fee of \$1,000 or up to half the amount of the applicable renewal license fee charged by the OCM, whichever is less.

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Q38. Can my city limit the number of cannabis retailer licenses issued in our city?

A38. A city that issues cannabis retailer registrations may, by ordinance, limit the number of licensed cannabis retailers, cannabis mezzobusinesses with a retail operations endorsement, and cannabis microbusinesses with a retail operations endorsement to no fewer than one registration for every 12,500 residents. In addition, if a county has one active registration for every 12,500 residents, a city within the county is not obligated to register any additional cannabis businesses.

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Q39. How does this impact my city's existing license for THC products?

A39. It appears that cities may continue to license edible cannabinoid products until the OCM begins issuing licenses. Those businesses that sell edible cannabinoid products to consumers must register with OCM before selling products. Once the OCM begins issuing lower-potency hemp edible retailer licenses, cities are likely preempted from continuing to issue their own licenses and would begin registering retailers through the city's cannabis retailer registration process.

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Q40. Can edible cannabinoid products be sold for on-site consumption?

A40. Until the OCM begins issuing licenses, the on-site consumption of edible cannabinoid products is limited to those businesses with an on-sale liquor license issued under Minnesota Statutes, Chapter 340A. In addition, the following conditions must be met:

- Products, other than those intended to be consumed as a beverage, must be served in original.
- Products may not be sold to an intoxicated customer.
- Products must not be permitted to be mixed with alcoholic beverages.
- Products removed from packaging must remain on premises.
- Products that are intended to be consumed as a beverage may be served outside of the products' packaging if the information that is required to be contained on the label of an edible cannabinoid product is posted or otherwise displayed by the retailer.

After the OCM is set up, it will issue on-site consumption endorsements for cannabis license holders.

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Q41. Will I be able to prohibit cannabis events in my city?

A41. The new law authorizes temporary cannabis events lasting no more than four days. To be approved for a cannabis event license, applicants must obtain any necessary permits or licenses issued by a local unit of government. Cities may not prohibit cannabis events, but they may set standards which the event organizer must meet. Cities may also permit on-site consumption for events but are not required to.

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Q42. How does this impact my city's existing THC license program?

A42. Local THC licenses may continue until the OCM begins issuing its own licenses, which state agencies anticipate beginning in January of 2025. When the OCM licensing begins, cities will need to follow the retail registration procedures outlined in the law.

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Q43. How does the new law impact my city's existing THC moratorium?

A43. The new law does not affect a current moratorium. If a city adopted a moratorium on low-potency edibles, it remains in place and will expire as noted when it was adopted.

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Q44. Can the city's zoning regulation restrict where a business can operate?

A44. Cities are allowed to adopt reasonable restrictions on the time, place, and manner of the operations of a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses. Cities may prohibit the operations 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 a playground or athletic field.

OCM has published a [Guide for Local Governments on Adult-Use Cannabis](#) which contains model language related to zoning.

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Q45. Can cities adopt a moratorium prohibiting the sale, manufacturing, or distribution of adult-use cannabis to study the issue?

A45. Cities may adopt an interim ordinance if:

- It is conducting studies.
- Has authorized a study to be conducted.
- Has held or has scheduled a hearing for the purpose of considering adoption or amendment of reasonable restriction on the time, place, and manner of the operation of a cannabis business as defined in the new law.

Before adopting an interim ordinance, the city must hold a public hearing on the issue. The interim ordinance may be in place until Jan. 1, 2025. The authority for an extended moratorium does not apply to the sale or production of low-potency hemp edible products.

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Q46: What if my city has complaints about a licensed cannabis business?

A46. The OCM will establish an expedited complaint process to receive, review, and respond to complaints made by cities about a cannabis business. The OCM will be required to respond to the complaint within seven days and perform any necessary inspections within 30 days. If certain cannabis businesses are deemed by the city to pose an immediate threat to the health or safety of the public, the OCM must respond within one business day.

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Q47: Can a city deny a liquor license if they find that the business is selling cannabis or low-potency hemp products without a license?

A47. Yes. The new law prohibits a retail license from being issued to a person who has had a license or registration issued under ch. 342 or Minn. Stat. § 151.72, subd. 5b revoked; has been convicted of an offense under Minn. Stat. § 151.72, subd. 7; or has been convicted under any other statute for the illegal sale of marijuana, cannabis flower, cannabis products, lower-potency hemp edibles, hemp-derived consumer products, or edible cannabinoid products and the sale took place on the premises of a business that sells intoxicating liquor or 3.2% malt liquor.

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Q48. Can a city suspend or revoke a tobacco license if they find that they are selling cannabis or low-potency hemp products without a license?

A48. Yes. The new law allows a tobacco license to be suspended or revoked if the licensee has a registration or licensed under ch. 342 or Minn. Stat. § 151.72, subd. 5b revoked; is convicted of an offense under Minn. Stat. § 151.72, subd. 7; or has been convicted under any other statute for the illegal sale of marijuana, cannabis flower, cannabis products, lower-potency hemp edibles, hemp-derived consumer products, or edible cannabinoid products and the sale took place on the premises of a business that sells tobacco. A city must provide notice and an opportunity for a hearing before suspension or revocation.

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City employment and personnel issues

Q49. Does the new law allowing adult-use cannabis change anything about how we do drug testing for CDL holders?

A49. No, cities with positions requiring an employee to hold a commercial driver's license (CDL) will recall these positions are regulated by federal law, and those regulations are supervised by the Federal Department of Transportation (DOT). Federal law preempts state law related to cannabinoid use; in fact, the DOT states in its [DOT Recreational Marijuana Notice](#) that it does not authorize the use of Schedule I drugs, including marijuana, for any reason. As a result, cities should continue to follow their drug-testing procedures related to CDL holders and may enforce prohibitions against any use of cannabinoids for CDL holders, regardless of state law protections.

Cities can find more information on existing drug testing policies in the [LMC Drug and Alcohol Testing Toolkit](#), starting on page 22. An updated model Non-DOT Drug, Alcohol and Cannabis Policies will be available once legal consultants have reviewed.

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Q50. Does the new law change anything related to employees who carry a firearm?

A50. No. Public safety employees who carry a firearm cannot lawfully use marijuana under federal law. Federal law prohibits cities from providing firearms or ammunition to an employee it knows or has reason to think is using marijuana. Although there is a legal difference between

marijuana products and hemp products, it may not be possible to differentiate the products in a drug test. Officers should be mindful of any substance they ingest because they are ultimately responsible if those products lead to a positive marijuana test.

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Q51. Besides positions requiring a CDL or carrying a firearm, are there any other positions which are not affected by the new law?

A51. Yes. The law excludes the following seven position classes from the law's changes:

1. A safety-sensitive position, as defined in as defined in Minn. Stat. § 181.950, subd. 13.
2. A peace officer position, as defined in Minn. Stat. § 626.84, subd. 1.
3. A firefighter position, as defined in Minn. Stat. § 299N.01, subd. 3.
4. A position requiring face-to-face care, training, education, supervision, counseling, consultation, or medical assistance to:
 1. Children.
 2. Vulnerable adults, as defined in Minn. Stat. § 626.5572, subd. 21.
 3. Patients who receive health care services from a provider for the treatment, examination, or emergency care of a medical, psychiatric, or mental condition.
5. A position funded by a federal grant.
6. Any other position for which state or federal law requires testing of a job applicant or employee for cannabis.
7. A position requiring a commercial driver's license or requiring an employee to operate a motor vehicle for which state or federal law requires drug or alcohol testing of a job applicant or employee.

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Q52. Can we still prohibit employees from being under the influence of cannabis while at work? Does the League have a model policy with updated language?

A52. Yes, employers can continue to prohibit employees from being under the influence of cannabis products, while at work. For employers, a key focus will be workplace safety with the consideration that cannabis is more difficult to detect and test than alcohol. Employers may continue to maintain drug-free policies at the workplace and discipline employees who use cannabis during working hours or who report to work impaired.

Under the Occupational Safety and Health Administration's (OSHA) General Duty Clause of the Occupational Safety and Health Act, employers are required to furnish a workplace free from recognized hazards that are likely to cause serious physical harm. This provision of the Act is typically used in accident cases where toxicology screens are positive. OSHA's new electronic recordkeeping rule, clarified on Oct. 11, 2018, states "If the employer chooses to use drug testing to investigate the incident, the employer should test all employees whose conduct could have contributed to the incident, not just employees who reported injuries," with respect to using drug testing to evaluate the root cause of a workplace incident that harmed or could have harmed employees. Thus, a non-DOT drug and cannabis-city testing policy with protocols following this guidance is important.

Under the new law, employers can enact and enforce work policies prohibiting the use, possession, and impairment of cannabis while at work or operating employer vehicles, equipment, and machinery. It is difficult to test for cannabis to determine if an employee is currently under the influence due to the drug's ability to be detectable for weeks after it is used. With the prohibitions on disciplining employees other than those listed in Q3, employers will be in a difficult position to take action against an employee who tests positive for cannabis. A best practice is for cities to train supervisors about the behavioral signs and symptoms of drug and cannabis use as well as how to document observations of potential impairment so should a situation occur in the workplace, supervisors can effectively respond and document what they observed leading to the situation.

An updated model Non-DOT Drug, Alcohol and Cannabis Policies will be available once legal consultants have reviewed.

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Q53. If an employee is injured while being under the influence of cannabis at work, are they still entitled to workers' compensation benefits?

A53. While each case is very fact-specific, the general rule is that if the injury was intentionally self-inflicted or the intoxication of the employee is the proximate cause of the injury, then the employer is not liable for compensation. The burden of proof of these facts is upon the employer.

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Q54. Can employees be in possession of edibles or other cannabis products while at work?

A54. Cities may enact policies prohibiting employees from bringing cannabis products, including edibles, to work. A best practice is for cities to train supervisors about the behavioral signs and symptoms of drug and cannabis use as well as documenting observations of potential impairment so should a situation occur in the workplace, supervisors can effectively respond and document what they observed leading to the situation.

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Q55. Do we need to change anything in our collective bargaining agreement (CBA) regarding discipline of employees who use cannabis products?

A55. Maybe. If cities have policies within their CBAs that relate to cannabis use and discipline, cities should consult with their city attorney to determine if any changes are needed. CBAs may address cannabis and cannabis testing, but the CBAs must at least meet the minimum employee rights guaranteed by the statute.

Ensure your city's drug and cannabis-testing policies have been updated and your supervisors are trained on the behavioral signs and symptoms associated with impairment as well as documenting observations of potential impairment. If the CBA includes language that policy changes need to be negotiated, then there would need to be a meeting with the union if the city's policy changes.

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Q56. Can employees use cannabis products off-duty?

A56. It depends. See Q1, Q2, and Q3 for a list of employees who can be prohibited from using cannabis products both on and off duty due to federal or state regulations. Other employees would be able to use cannabis products while they are off duty, if they are not impaired at work. If there are any questions regarding whether an employee could be prevented from using cannabis products while off-duty, please consult your city attorney before any action is taken.

In addition, the law prohibits an employer from taking adverse employment action against an employee who is a patient in the state's medical cannabis program unless a failure to do so would violate federal or state law or regulations, or cause an employer to lose a monetary or incensing-related benefit under federal law or regulations.

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Q57. How does this impact the requirements of the Drug-Free Workplace Act?

A57. It does not. The Drug-Free Workplace Act of 1988 (DFWA) requires federal grantees and contractors to implement a drug-free workplace policy and establish a drug-free awareness program as a precondition for receiving a federal grant or a contract. However, the DFWA does not require covered employers to test employees for drugs or terminate them for drug-related violations, so the new Minnesota state law does not impact the DFWA directly. Minnesota law allows employers to prohibit employees from bringing legal cannabis products to work and permits employers to prohibit employees from being under the influence while at work. It would be best practice for cities with drug-free work policies to keep those in effect. If a city wishes to do so, it can update its policy to include lawful cannabis products within its scope.

An updated model Non-DOT Drug, Alcohol and Cannabis Policies will be available once legal consultants have reviewed.

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Q58. Should my city continue to include cannabis as a pre-employment panel screen for my non-DOT/safety-sensitive employees?

A58. The new Minnesota law prohibits an employer from refusing to hire an applicant simply because of a positive cannabis drug test. There are exceptions for positions where such testing and denial of job offer is required under applicable federal or state law. Cities will want to refer to the Q3, which provides a list of positions excepted from cannabis testing prohibitions. Practically speaking, if a position is not excepted, cities will need to determine whether they want to continue to test for cannabis in light of the limitation of the testing and confer with their city attorney before taking an action as a result of a positive test.

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Edible cannabinoid products

Q59. What is an edible cannabinoid product?

A59. An edible cannabinoid product is any product that is intended to be eaten or consumed as a beverage by humans, contains a cannabinoid in combination with food ingredients and is not

a drug. The edible product must contain a maximum of 5 mg THC per serving. Edible cannabinoid products do not include products that are intended to be smoked or vaped.

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Q60. What are the labeling requirements for edible cannabinoid products?

A60. Label's on THC edible products must include the following:

- Name, location, phone number, and website of manufacturer.
- Name and address of independent accredited laboratory used to test product.
- Batch number
- Amount or percentage of cannabinoids in each unit of the product.
- Statement stating that the product does not claim to diagnose, treat, cure, or prevent any disease and has not been evaluated or approved by the FDA.
- No claim that the product may be used or is effective for the prevention, treatment, or cure of a disease; or that it may be used to alter the structure or function of human or animal bodies, unless the claim has been approved by the FDA.
- Serving size
- Cannabinoid profile per serving and total.
- Ingredients
- The following Statement, "Keep this product out of reach of children."

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Q61. What are the restrictions on edible cannabinoid products?

A61. Edible cannabinoid product in Minnesota must meet the following requirements:

- Products may not bear likeness or contain cartoon-like characteristics of a real or fictional person, animal, or fruit that appeals to children.
- Products may not be modeled after a brand of products primarily consumed by or marketed to children.
- Products may not be made by applying cannabinoids to a commercially available candy or snack food item.
- Products may not contain other non-FDA approved ingredients.
- Products may not be packaged in a way that resembles other commercially available food products.
- Products may not be packaged in a container that includes items that could reasonably mislead a person to believe the package contains anything but an edible cannabinoid product.
- Must be packaged in child resistant, tamper-evident, and opaque packaging except if intended to be consumed as beverage.
- Contain no more than 5 mg THC per serving.

- Contain no more than 50 mg THC per package.
- Only contain Delta-8 or Delta-9 THC.
- Must be stored behind counter or in locked space.
- Must not be sold to those under the age of 21.

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Q62. Can edible cannabinoid products be sold for on-site consumption?

A62. Edible cannabinoid products can be sold for on-site consumption if the seller also holds an on-sale liquor license. Products sold for on-site consumption may not be mixed with alcohol and may not be sold to a customer who the retailer knows or reasonably should know is intoxicated.

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Q63. Can an exclusive liquor store sell edible cannabinoid products?

A63. An exclusive liquor store is authorized under state law to sell edible cannabinoid products.

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Q64. Do retailers that sell edible cannabinoid products need to register with the state?

A64. Sellers of edible cannabinoid products must register with the state of Minnesota by Oct. 1, 2023. The registration form can be found on the OCM website.

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Q65. Who should I contact if a retailer is selling noncompliant products in my city?

A65. The Office of Cannabis Management has established a complaint form to be used if a person suspects that an edible cannabinoid product is being sold in violation of state law. [Access the OCM complaint form](#). In addition, MDH has created a [Hemp-Derived Cannabinoid Product Compliance Fact Sheet for retailers \(pdf\)](#).

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Q66. Will LMCIT coverage apply to sales of low-potency edible products sold at a municipal liquor store?

A66. The Trust has defined two categories of cannabis products for purposes of coverage:

1. Low-potency edibles or infused drinks (cannabinoid products) sold at municipal liquor stores that are legal and authorized under state law. These products were legalized in Minnesota in 2022 with authority for municipalities to sell in 2023.
2. Other types of cannabis products that were legalized in 2023 and involve higher potencies and more ways to consume, such as inhalation.

The Trust will not exclude damages arising out the sale of low-potency cannabinoid products that fall within the requirements specified in [Minn. Stat. § 151.72](#).

Q67. Where can I find more information on edible cannabinoid products?

A67. [Visit OCM's webpage related to hemp-derived cannabinoid products.](#)

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Your LMC Resource

Research & Information Service staff members are ready to help you apply their broad knowledge to the issues you're dealing with today.

[Access online form to submit a question](#), or call us: (651) 281-1200 or (800) 925-1122

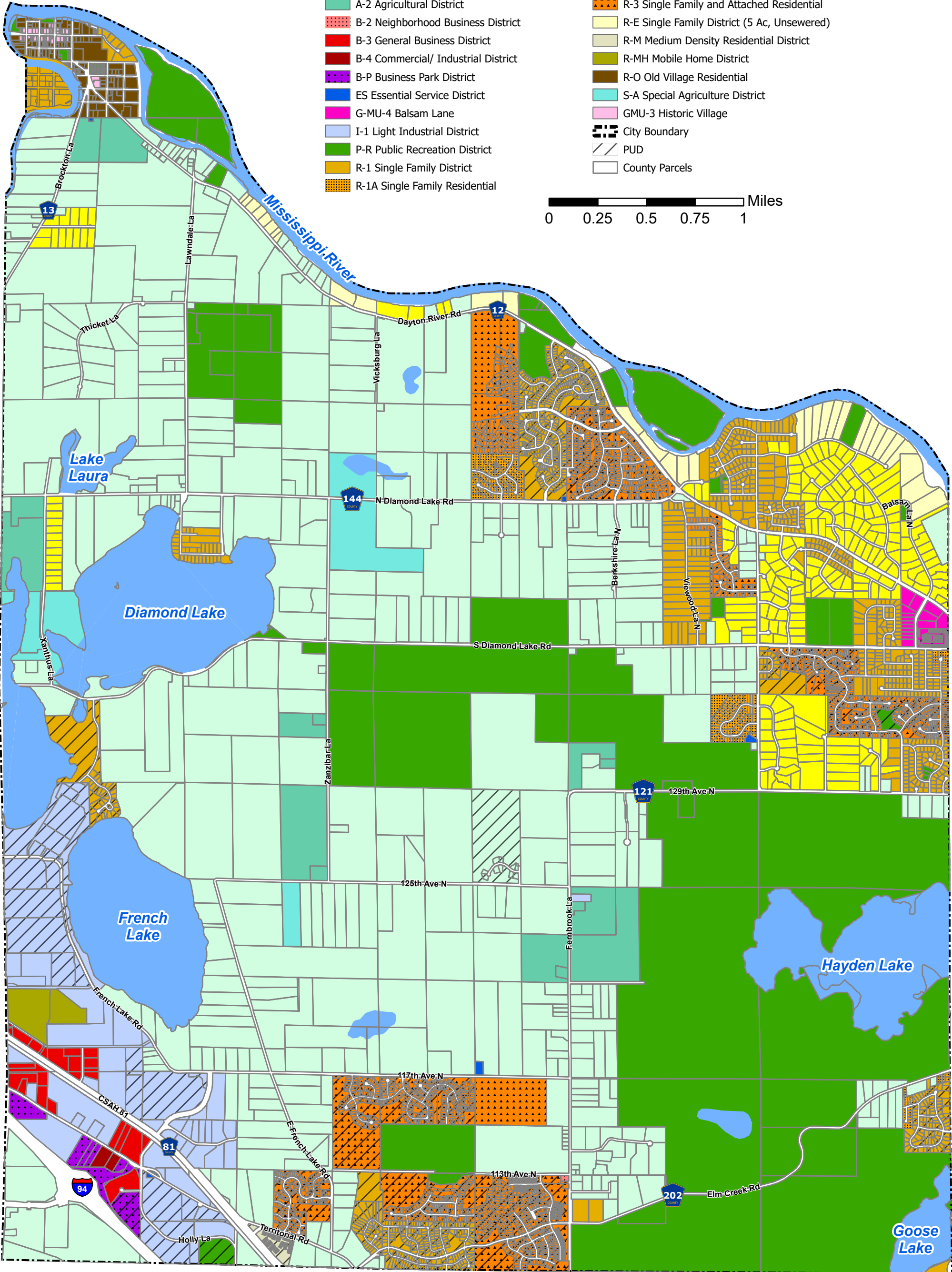
Zoning Map

October 25, 2024



Legend

- | | |
|-------------------------------------|---|
| A-1 Agricultural District | R-2 Single Family District (90,000 Sf, Unsewered) |
| A-2 Agricultural District | R-3 Single Family and Attached Residential |
| B-2 Neighborhood Business District | R-E Single Family District (5 Ac, Unsewered) |
| B-3 General Business District | R-M Medium Density Residential District |
| B-4 Commercial/ Industrial District | R-MH Mobile Home District |
| B-P Business Park District | R-O Old Village Residential |
| ES Essential Service District | S-A Special Agriculture District |
| G-MU-4 Balsam Lane | GMU-3 Historic Village |
| I-1 Light Industrial District | City Boundary |
| P-R Public Recreation District | PUD |
| R-1 Single Family District | County Parcels |
| R-1A Single Family Residential | |



ITEM:

Recommendation of Approval of Ordinance 2024-___, Amendment City Code 1001.20 regarding Signage

APPLICANT/PRESENTERS:

City of Dayton

PREPARED BY:

Jon Sevald, Community Development Director

BACKGROUND/OVERVIEW:

The City Code was amended in 2023¹ to prohibit signs in the right-of-way, and to prohibit off-premises business signs. The amendment was in response to complaints regarding the clutter of signs found at many intersections. Beginning in spring 2023, staff began collecting signs on a weekly basis, resulting in complaints from local businesses, developers, and residents. The City Council directed further discussion to occur after the election.

Signs cannot be regulated based on content. Signs can only be regulated by location and size.

CRITICAL ISSUES:

1. Hennepin County prohibits Temporary Signs in county right-of-way, which is where many signs are placed. If temporary signs were permitted in city right-of-way, this will cause confusion about which side of intersections are signs permitted vs. prohibited. If Temporary Signs are to be permitted in city right-of-way, it will result in the same clutter that led to the 2023 Ordinance amendment to prohibit them.
2. Off-premise business signs are prohibited in residential districts. If Off-premise signs are permitted, Staff recommends limiting them to one 32 sq ft sign per street frontage, per parcel, no more than 4' in height from ground level, and prohibited from within a sight triangle (similar to fences). The attached Ordinance does not limit the time a Temporary Sign may be up (could be a permanent Temporary Sign).
3. One option is to permit Off-Premise Signs on city sign posts, which would create a unified appearance (e.g. MnDOT blue signs).

RELATIONSHIP TO COUNCIL GOALS:

N/A



ROLE OF PLANNING COMMISSION:

Conduct a Public Hearing, and make a recommendation for Approval, Denial, or Table.

¹ Ordinance 2023-10

PLANNING COMMISSION MEETING

RECOMMENDATION:

None.

A Public Hearing notice was published by THE PRESS on November 28, 2024.

ATTACHMENT(S):

Photos

Ordinance



ORDINANCE NO. 2024-__

**CITY OF DAYTON
HENNEPIN AND WRIGHT COUNTIES, MINNESOTA**

**A TEXT AMENDMENT OF DAYTON CITY CODE SECTION 1001.20 SUBD 6.
REGARDING PROHIBITED SIGNS**

THE CITY COUNCIL OF THE CITY OF DAYTON DOES ORDAIN:

SECTION 1. TEXT AMENDMENT. The Dayton City Code Section 1001.20 subd 6 is hereby amended by adding the following underlined language and deleting the following language, which reads as follows:

Section 1001.20

Subd. 5 district Regulations

(5) Temporary signs.

- a. Freestanding signs shall be set back no less than 10 feet from the property line edge of roadways and shall not exceed 32 square feet in area. Such signs are limited to one sign per street frontage, per parcel.
- b. If building-mounted, these signs shall be flat wall signs and shall not project above the roofline.
- c. If ground-mounted, the top shall be no more than ~~6~~ 4 feet above ground level.
- d. ~~Such signs shall be allowed no more than 21 days prior to the event or function and must be removed within 7 days after the event or function.~~
- e. Such signs may be illuminated in accordance with restrictions set forth in this Section.
- f. Temporary development sales signs shall be allowed upon approval of a final plat for a subdivision having 5 or more lots provided that:
 1. One sign shall be allowed per project or subdivision or 1 sign for each frontage to a major collector or arterial street, whichever is greater.
 2. Each construction site will be allowed up to 2 signs, each limited to a maximum of 32 square feet in area.
 3. Freestanding signs shall be limited to a maximum height of 8 feet.
 4. The sign shall not be displayed for a period to exceed 36 months from the date a permit is issued for the sign or until building permits have been issued for 85% of the lots or dwelling units within the subdivision, whichever is less restrictive.

Subd. 6 Prohibited Signs

- (1) Any sign, signal, marking or device which purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signs, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.
- (2) Billboards.
- (3) Changeable copy signs, electronic, except as specifically allowed by this Chapter.
- (4) Content classified as Obscene as defined by M.S. § 617.241.
- (5) Electronic graphic display signs except as allowed by this Chapter.
- (6) Flashing signs.
- (7) Multi-vision signs.

- (8) Portable signs.
- (9) Roof signs.
- (10) Rotating signs.
- (11) Shimmering signs.
- (12) Signs painted, attached or in any other manner affixed to trees or similar natural surfaces, or attached to utility poles, bridges, towers, or similar public structures.
- ~~(13) Obsolete and Off Premises Signs: Residential Districts (except those established prior to January 8, 2008). No signs shall be permitted which advertises a business which is not being presently conducted on the premises on which the sign is located.~~
- (14) Any sign within the public right of way.

SECTION 2. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage and publication as required by law.

Adopted by the City Council of the City of Dayton this 14th day of January, 2025.

Dennis Fisher, Mayor

ATTEST:

Amy Benting, City Clerk

Motion made by Councilmember _____. Second by Councilmember _____.
Motion carried.

ITEM:

Concept Plan, TQ Farms

APPLICANT/PRESENTERS:Joe Radich, Contour Civil Design, LLC
Jason Quilling, TQ Farms of Dayton, LLC**PREPARED BY:**Jon Sevald, Community Development Director
Hayden Stensgard, Planner II**BACKGROUND/OVERVIEW:**

The Developer owns three contiguous properties, totaling 45.81 acres, zoned A-1 Agricultural. The minimum lot size in the A-1 district is 40 acres. All three parcels are legal non-conforming. The Developer proposes to adjust property boundaries and build a home on the vacant parcel.¹

Address	PID	Existing	A-1 Zone	Proposed
14751 Lawndale Ln ²	07-120-22-11-0005	11.22 ac	40 ac	11.22 ac
14681 Lawndale Ln	07-120-22-14-0007	15.35 ac	40 ac	4.96 ac
0	07-120-22-13-0001	19.24 ac	40 ac	30.04 ac

The City Council has discussed creating an A-3 district which would allow for an average lot size of 10-acres and require ghost platting for future sewered development (4 units per acre). In this case, the 34 acre plat would be permitted three lots, whereas two are proposed. If the A-3 district were adopted, this would eliminate Critical Issue #1.

CRITICAL ISSUES:

1. Variance to reduce minimum lot size from 40-acres to 5-acres.³ Variances to the Subdivision Ordinance require the following Findings:⁴
 - a. *That there are special circumstances or conditions affecting the property that the strict application of the provisions of this Subsection would deprive the applicant of the reasonable use of the land; and*
 - b. *That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.*

¹ NOTE: The Applicant's intent is for an Administrative Subdivision, subject to City Code 1002.04, Subd 1 (Administrative Subdivision). The proposed subdivision is not consistent with City Code 1002.04, Subd 1(4)(a); *The administrative subdivision shall conform to all design standards as specified in City Code Sections 1001 and 1002.* City Code 1001.05, Subd 9(5) requires 40-acre parcels. The existing 15.35 acre parcel is legal non-conforming. It cannot be made less non-conforming (cannot decrease in size, but for a Variance). Staff's direction is process the application as a Preliminary/Final plat, including ROW dedication.

² 14751 Lawndale Lane is **excluded from the plat**, but is discussed here to provide background.

³ City Code 1001.05, Subd 9(5) (District Requirements; Minimum lot size)

⁴ City Code 1002.11 (Variances)

PLANNING COMMISSION MEETING

In Staff's opinion, #a is not met. A home can be built on the vacant 19-acre parcel as-is. #b can be met.

2. Variance to reduce minimum lot frontage from 300' to 60'.⁵ Referring to the Variance criteria discussed in #1, #a is arguable. City Code requires a 300' lot width whereas 50'-60' (ROW width) would be proposed. A Variance can be avoided by dedicating ROW to include a cul-de-sac. #b can be met.
3. Right-of-way dedication. The Concept Plan does not propose right-of-way dedication.

In 2004, Randy and Tami Duke (14651 Lawndale Ln) and Bruce and Kathy Bennett (14681 Lawndale Ln) granted a perpetual easement to the city for a public roadway, drainage and utilities.⁶ This was to allow subdivision of 14651 Lawndale to create 14661 Lawndale Ln (Jason & Jonna Duke), which otherwise would have been a landlocked parcel subject to variances. The city does not maintain the roadway easement. For all practical purposes, the roadway easement functions as a driveway.

There are two options; (1) for the Developer to construct a road to city standards; or (2) for the City to grant a Limited Use agreement to the Developer (city would continue to not maintain the roadway).

The Dukes object to the use of the roadway easement by the Developer, and argue the Developer should provide a separate access.

4. Conditional Use Permit for a Cemetery.⁷ The concept plan includes a mausoleum. Staff continues to research cemetery law⁸, and how this is applicable to the project. The Mausoleum should be platted as an outlot with an access easement to a public road.

60/120-DAY RULE (IF APPLICABLE):

	60-Days	120-Days
N/A		

RELATIONSHIP TO COUNCIL GOALS:

Planning Ahead to Manage Thoughtful Development
Preserving our Rural Character

ROLE OF PLANNING COMMISSION:

Conduct a Public Hearing, and provide comments and recommendations (no Action required)

RECOMMENDATION:

1. Wait to plat until after A-3 district adopted.
2. Dedicate ROW to include cul-de-sac. Do not build road. Grant Limited Use agreement to use ROW, to be maintained by Duke/Quiling.

⁵ City Code 1001.05, Subd 9(5) (District Requirements; Minimum lot width frontage)

⁶ Easement Agreement, Hennepin County doc #8343313, May 4, 2004.

⁷ City Code 1001.05(4) (Conditional Uses)

⁸ MN Statute 306 (Public Cemeteries)

PLANNING COMMISSION MEETING

A Public Hearing Notice was published by THE PRESS on November 28, 2024, and mailed to property owners within 500' of the subject property.

ATTACHMENT(S):

Site Photos, Aerial Photo

Survey, November 7, 2024

Administrative Subdivision, October 2, 2023

Schematic Site Plan, December 19, 2023

Randy Duke email, December 6, 2024



City roadway easement, accessing 14661 Lawndale Ln (photo Dec 6, 2024).



City roadway easement. 14661 Lawndale Ln at left (Duke). 14681 Lawndale Ln at right (Quiling) (photo Dec 6, 2024).



Panoramic view looking west from top of paved driveway (roadway easement). Split rail fence is property line (Dec 6, 2024).



ALTA/NSPS LAND TITLE SURVEY CERTIFICATION

I hereby certify to TQ Farms of Dayton, LLC, a Minnesota limited liability company; and to Guaranty Commercial Title, Inc., as issuing agent for Old Republic National Title Insurance Company that this is a survey of:

Lot 4, Block 1, THE FARM IN DAYTON, according to the recorded plat thereof, Hennepin County, Minnesota.

and is based upon information found in Title Commitment File Number 67945, dated effective March 20, 2024 at 8:00 AM, prepared by Guaranty Commercial Title, Inc., as issuing agent for Old Republic National Title Insurance Company, and that all easements, if any, listed in Schedule B-II on the herein referenced commitment for title insurance, are shown hereon; and that this map or plat and the survey on which it is based were made (i) in accordance with "Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys," jointly established and adopted by ALTA and NSPS in 2021, and (ii) pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, the undersigned further certifies that in my professional opinion, as a land surveyor licensed in the State of Minnesota, the Relative Positional Accuracy of this survey does not exceed that which is specified therein and includes Items 1, 2, 3, 4, 5, 6(a), 7(a), 8, 9, 11(a), 11(b), and 13 of Table A thereof. The field work was completed on April 24, 2024. Additional features located on November 06, 2024.

I further certify that this survey 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.

Date: 11/07/2024

E.G. Rud & Sons, Inc.

Jason E. Rud, Land Surveyor
Minnesota License No. 41578

GENERAL NOTES

1. Fee ownership is vested in TQ Farms of Dayton, LLC, a Minnesota limited liability company.

Parcel ID Number: 07-120-22-14-0007.

2. Per Title Commitment, the surveyed property's address is 14681 Lawndale Lane N, Dayton, MN 55327.

3. Bearings shown hereon are based on the Hennepin County Coordinate System.

4. Surveyed premises shown on this survey map is in Flood Zone X (Areas determined to be outside the 0.2% annual chance floodplain), according to Flood Insurance Rate Map Community No. 270157 Panel No. 0032 Suffix F by the Federal Emergency Management Agency, effective date November 4, 2016.

5. Boundary area of the surveyed premises: 686,426± sq. ft. (15.76± acres).

6. The surveyed premises adjoins and has direct access to Lawndale Lane N., a public street.

7. No zoning endorsement letter was provided to the surveyor at the time of the survey, however, a search of the City of Dayton's website indicates the surveyed property is currently zoned A-1 (Agricultural District). For additional information regarding zoning and setbacks, contact the Planning Department at the City of Dayton at (612) 638-0228.

8. No parking stalls were observed on the surveyed property at the time of the survey.

9. Above ground utilities have been field located as shown. Underground utilities shown hereon are those which were field marked by utility companies responding to Gopher State One Call, Ticket No. 241011330, dated 4/19/2024 or were taken from utility plans provided by the City of Dayton. All underground locations shown hereon are APPROXIMATE. Prior to any excavations or digging, contact Gopher State One Call for an on-site location (651-454-0002). However, lacking excavation, the exact location of underground features cannot be accurately, completely, and reliably depicted. In addition, Gopher State One Call locate and other similar utility locate requests from surveyors may be ignored or result in an incomplete response. Where additional or more detailed information is required, the client is advised that excavation may be necessary.

10. Subsurface and environmental conditions were not examined or considered during the process of this survey. No statement is made concerning the existence of underground or overhead containers or facilities that may affect the use or development of the surveyed premises.

11. Title Commitment File Number 67945, dated March 20, 2024 at 8:00 AM, prepared by Guaranty Commercial Title, Inc., as issuing agent for Old Republic National Title Insurance Company, Schedule B, Part II Survey Related Exceptions:

Item #2 - Any encroachment, encumbrance, violation, variation or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.
[SURVEYOR'S NOTE: Existing site improvements are shown hereon.]

Item #7 - Drainage and utility easement(s) as shown on the recorded plat of The Farm in Dayton.
[SURVEYOR'S NOTE: Easements are shown hereon.]

Item #8 - Street easement(s) over part of the Land in favor of the City of Dayton, as created in Deed of Easement dated August 5, 1987, filed August 21, 1987 as Document No. 5315142.
[SURVEYOR'S NOTE: Said document does affect the surveyed parcel.]

Item #9 - Roadway, drainage and utility easement(s) over part of the Land as created by Easement Grant dated April 20, 2004, filed May 4, 2004 as Document No(s). 8343313.
[SURVEYOR'S NOTE: Easement is shown hereon.]

Item #10 - Terms and conditions of the Access Easement Agreement by and between TQ Farms of Dayton, LLC a Minnesota limited liability company and TQ Farms of Dayton II, LLC, a Minnesota limited liability company dated January 8, 2020, filed January 27, 2020, as Document No. 10750757.
[SURVEYOR'S NOTE: Easement is shown hereon. Gravel drive does not fall within the easement as shown.]

Item #11 - Mortgage dated June 10, 2020, filed June 12, 2020, as Document No. 10798186, to secure indebtedness in the amount of \$650,000.00 and any other sums which may become due and payable under the terms thereof, executed by TQ Farms of Dayton, LLC, a Minnesota limited liability company and TQ Farms of Dayton II, LLC, a Minnesota limited liability company, as mortgagor, to Bridgewater Bank, as mortgagee. (Also covers other land)
[SURVEYOR'S NOTE: Not survey related.]

Item #12 - Assignment of Rents dated June 10, 2020, filed June 12, 2020, as Document No. A10798187, executed by TQ Farms of Dayton, LLC, a Minnesota limited liability company and TQ Farms of Dayton II, LLC, a Minnesota limited liability company, as assignor, to Bridgewater Bank, as assignee.
[SURVEYOR'S NOTE: Not survey related.]



E. G. RUD & SONS, INC.

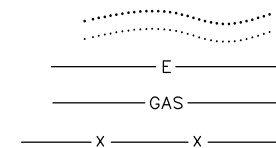
Professional Land Surveyors

6776 Lake Drive NE, Suite 110

Lino Lakes, MN 55014

Tel. (651) 361-8200 Fax (651) 361-8701

www.egrud.com

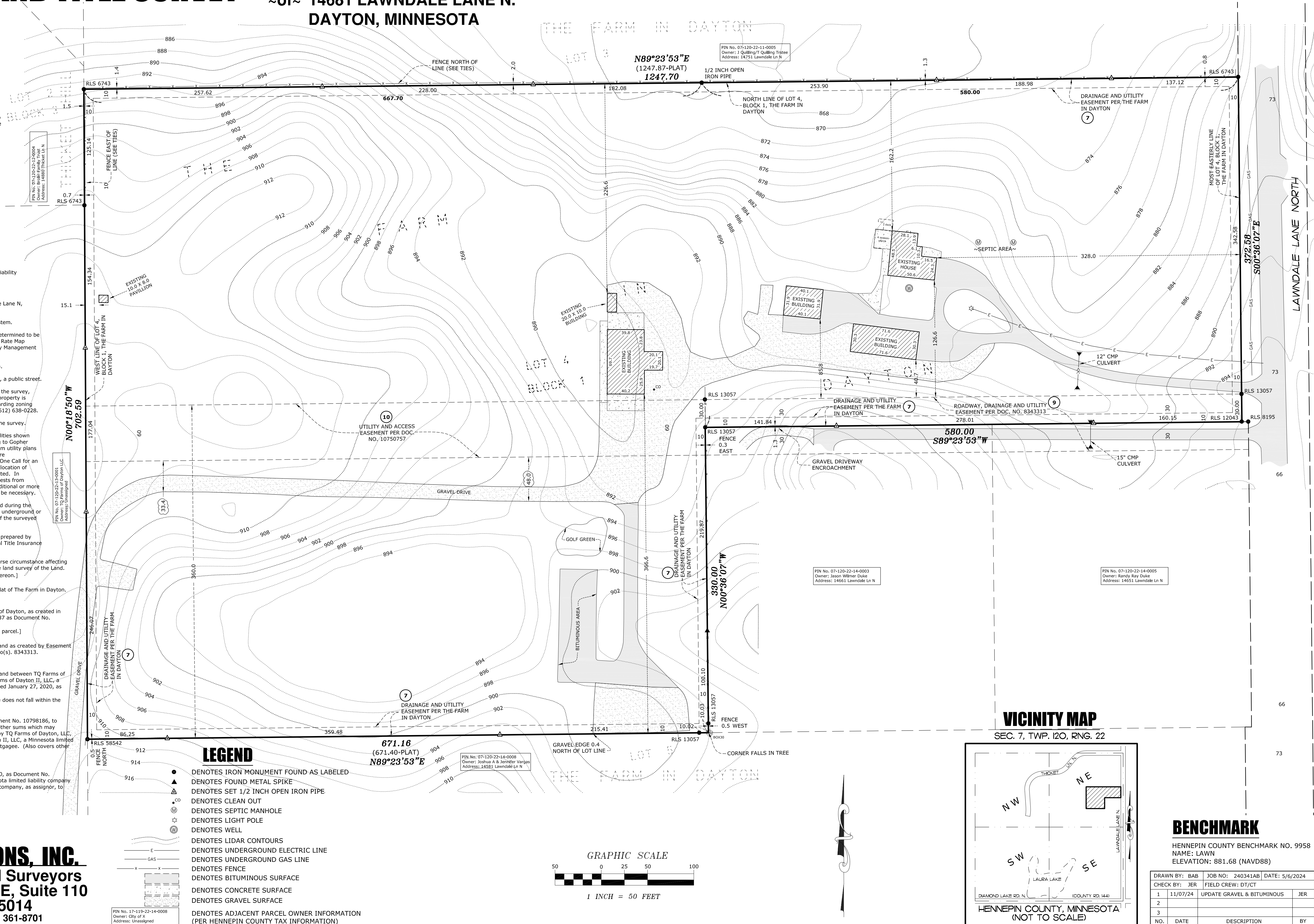


PIN No. 17-119-22-14-0008
Owner: City of X
Address: Unassigned

LEGEND

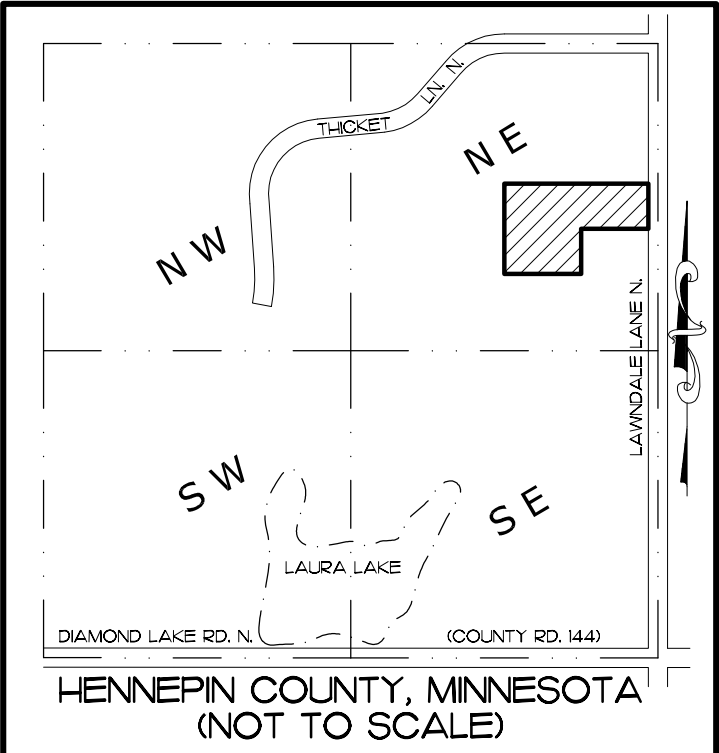
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- ▲ DENOTES FOUND METAL SPIKE
- ▲ DENOTES SET 1/2 INCH OPEN IRON PIPE
- DENOTES CLEAN OUT
- ⊗ DENOTES SEPTIC MANHOLE
- ☆ DENOTES LIGHT POLE
- ⊙ DENOTES WELL
- DENOTES LIDAR CONTOURS
- DENOTES UNDERGROUND ELECTRIC LINE
- DENOTES UNDERGROUND GAS LINE
- DENOTES FENCE
- DENOTES BITUMINOUS SURFACE
- DENOTES CONCRETE SURFACE
- DENOTES GRAVEL SURFACE
- DENOTES ADJACENT PARCEL OWNER INFORMATION (PER HENNEPIN COUNTY TAX INFORMATION)

~for~ TQ FARMS OF DAYTON, LLC
~of~ 14681 LAWNDAL E LANE N.
DAYTON, MINNESOTA



VICINITY MAP

SEC. 7, TWP. 120, RNG. 22



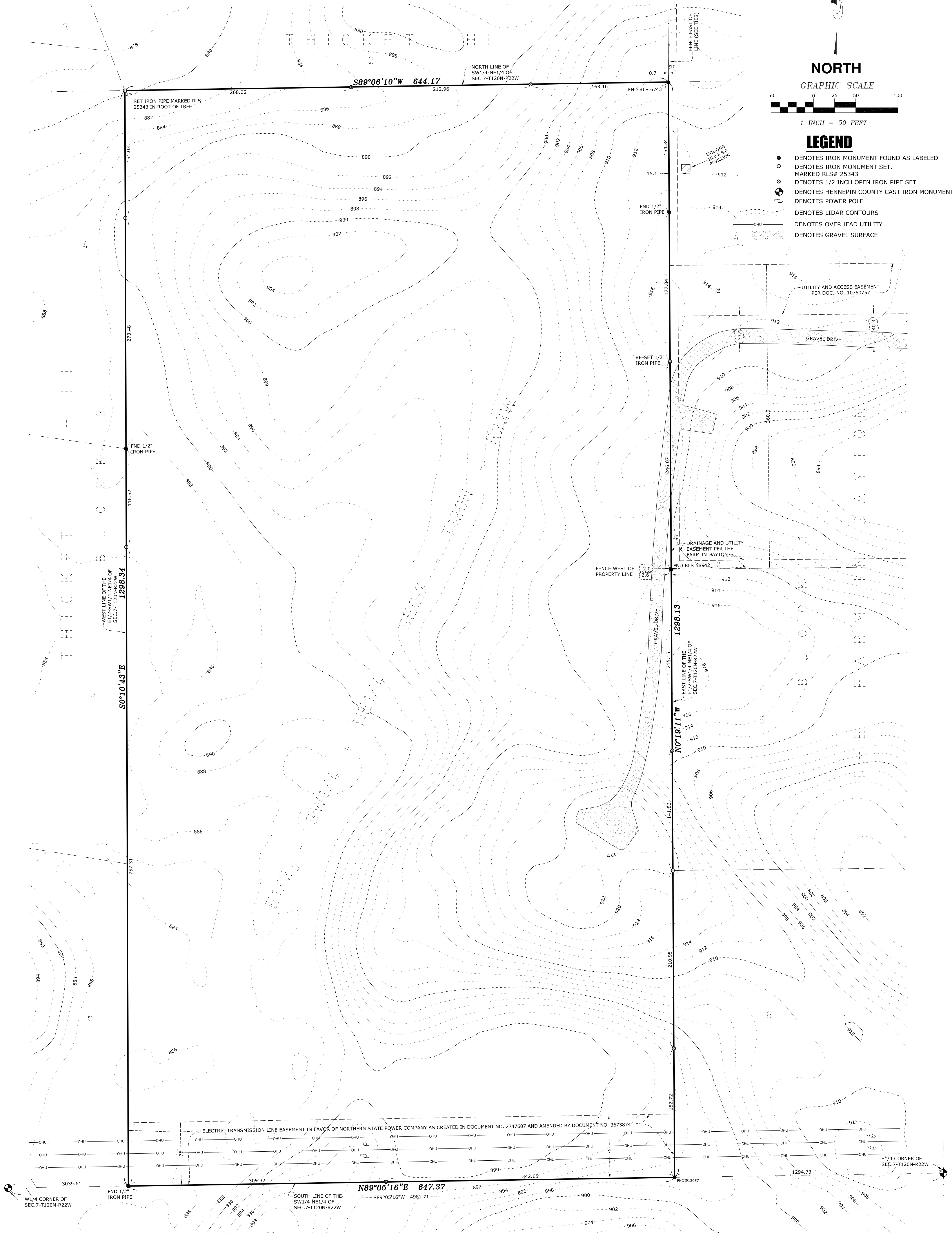
BENCHMARK

HENNEPIN COUNTY BENCHMARK NO. 9958
NAME: LAWN
ELEVATION: 881.68 (NAVD88)

DRAWN BY:	BAB	JOB NO:	240341AB	DATE:	5/6/2024
CHECK BY:	JER	FIELD CREW:	DT/CT		
1	11/07/24	UPDATE GRAVEL & BITUMINOUS	JER		
2					
3					
NO.	DATE	DESCRIPTION			BY

CERTIFICATE OF SURVEY

~for~ QUALITY TRUSTED COMMERCIAL
CONSTRUCTION & ROOFING
~of~ DAYTON SITE



BENCHMARK

HENNEPIN COUNTY BENCHMARK NO. 9958
NAME: LAWN
ELEVATION: 881.68 (NAVD88)

NOTES

- Field survey was completed by E.G. Rud and Sons, Inc. on 11/06/24.
- Bearings shown are on the Hennepin County Coordinate System.
- Fee ownership is vested in TQ FARMS OF DAYTON LLC.
- Parcel ID Number: 07-120-22-13-0001
- Boundary area of the surveyed premises: 838,300± S.F. (19.24 Acres)
- This survey is based upon information found in the commitment for title insurance prepared by Guaranty Commercial Title, Inc., as Issuing agent for Old Republic Title Insurance Company File No. 65575, dated effective April 15th, 2020. Additional easements, restrictions and/or encumbrances may exist other than those shown hereon. Survey subject to revision upon receipt of a current title commitment or an attorney's title opinion.
- Contours shown are based on MNGeo LIDAR Topography.

PROPERTY DESCRIPTION

The East One Half (1/2) of Southwest Quarter (1/4) of Northeast Quarter (1/4) in Section Seven (7), Township One Hundred Twenty (120), Range Twenty-two (22), according to the United States Government Survey thereof, Hennepin County, Minnesota.

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

JAMES E. NAPIER
Date: 11-07-2024 License No. 25343

E. G. RUD & SONS, INC.
Professional Land Surveyors
6776 Lake Drive NE, Suite 110
Lino Lakes, MN 55014
Tel. (651) 361-8200 Fax (651) 361-8701

DRAWN BY: JEN	JOB NO: 241243BS	DATE: 11/07/24
CHECK BY: JEN	FIELD CREW: DT-CT	
1		
2		
3		
NO.	DATE	DESCRIPTION
		BY

ADMINISTRATIVE SUBDIVISION

~for~ QT COMMERCIAL CONSTRUCTION & ROOFING
~of~ 14681 LAWNSDALE LANE N.,
DAYTON, MINNESOTA

EXISTING PARCEL DESCRIPTION

(Per Hennepin County Tax Records)

Lot 4, Block 1, THE FARM IN DAYTON, according to the recorded plat thereof, Hennepin County, Minnesota.

PROPOSED PARCEL A DESCRIPTION

Lot 4, Block 1, THE FARM IN DAYTON, according to the recorded plat thereof, Hennepin County, Minnesota, EXCEPT the most easterly 580.00 feet thereof.

PROPOSED PARCEL B DESCRIPTION

The most easterly 580.00 feet of Lot 4, Block 1, THE FARM IN DAYTON, according to the recorded plat thereof, Hennepin County, Minnesota.

NOTES

- Field survey was completed by E.G. Rud and Sons, Inc. on 9/29/23.
- Bearings shown are on the Hennepin County Coordinate System.
- Parcel ID Number: 07-120-22-14-0007.
- The surveyed property contains 686,426 S.F. (±15.76 AC.)
- This survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown hereon. Survey subject to revision upon receipt of a current title commitment or an attorney's title opinion.
- According to Hennepin County tax records, the fee owner of the survey property is TQ Farms of Dayton LLC.

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

Kevin C. McCain
Kevin C. McCain

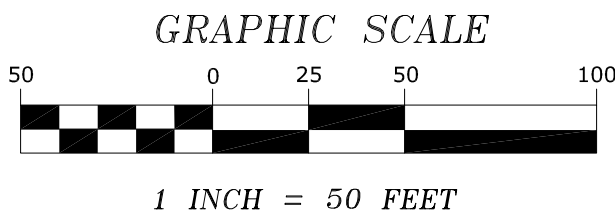
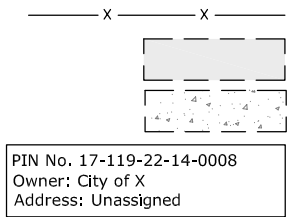
Date: 10/02/2023 License No. 58542

LEGEND

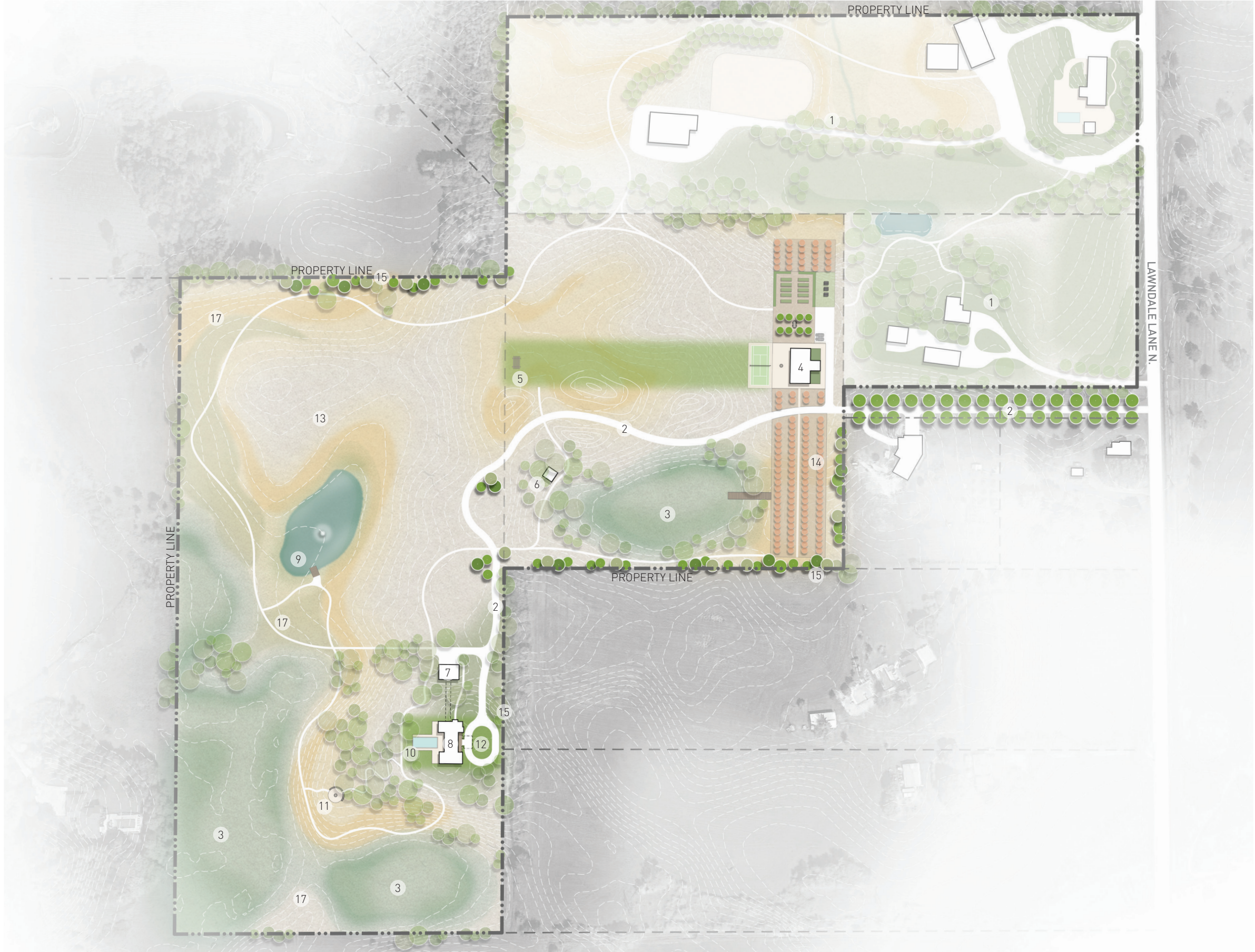
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- DENOTES 1/2 INCH BY 14 INCH IRON PIPE SET, MARKED RLS NO. 58542
- ▲ DENOTES FOUND METAL SPIKE
- △ DENOTES SET 1/2 INCH OPEN IRON PIPE
- ⊙ DENOTES CLEAN OUT
- ⊙ DENOTES SEPTIC MANHOLE
- ⊙ DENOTES WELL
- ⊙ DENOTES FENCE
- ⊙ DENOTES BITUMINOUS SURFACE
- ⊙ DENOTES CONCRETE SURFACE
- ⊙ DENOTES ADJACENT PARCEL OWNER INFORMATION (PER HENNEPIN COUNTY TAX INFORMATION)



E. G. RUD & SONS, INC.
Professional Land Surveyors
6776 Lake Drive NE, Suite 110
Lino Lakes, MN 55014
Tel. (651) 361-8200 Fax (651) 361-8701



DRAWN BY:	KCM	JOB NO:	230969PP	DATE:	10/02/23
CHECK BY:	KCM	FIELD CREW:	DT/CT		
1					
2					
3					
NO.	DATE	DESCRIPTION		BY	



- Legend**
- 1. EX. RESIDENCES
 - 2. NEW DRIVE ACCESS
 - 3. EX. WETLAND
 - 4. EX. BARN
 - 5. CHAPEL OUTDOOR GATHERING AREA
 - 6. MAUSOLEUM
 - 7. PROPOSED DETACHED GARAGE
 - 8. PROPOSED HOUSE
 - 9. NEW POND / WATER FEATURE
 - 10. POOL / TERRACE AREA
 - 11. FIRE PIT AREA
 - 12. DRIVE / TURN AROUND
 - 13. RESTORED PRAIRIE WILDLIFE AREA
 - 14. EX. TREES
 - 15. SCREEN TREE PLANTING
 - 16. TRAILS / PATHS
 - 17. HABITAT AREA

Hayden Stensgard

From: Randy Duke <randyrduke@gmail.com>
Sent: Friday, December 6, 2024 9:01 AM
To: Hayden Stensgard
Subject: Re: Quilling Concept Review Public Hearing | Thursday, December 12, 2024
Attachments: image001.jpg; image002.png; image003.png; image004.png

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I have concerns about Jason Quillings development plans in Dayton. I own property at 14651 Lawndale Lane and my son owns the piece behind.

1. He wants to use the driveway for access to his property which was paid for by my son and he's maintained it for last 20 years. He owns enough property to access his land without the easement. The easement was originally for access to my sons house. However he now wants to include the 20 acres he bought from Paul Morrisette in the easement access.
2. He has no regard for law or environment which he's proven with past projects.
3. The area is zoned residential, however he continues to store his construction equipment directly in view of my sons living room window. He continually antagonizes the neighbors like this, including the recent addition of floodlights on at night.

The land I and my son own is and always has been 2 separate parcels; there was no splitting. If you have any other questions, dont hesitate to call me at [REDACTED]

On Thu, Dec 5, 2024, 10:30 AM Hayden Stensgard <hstensgard@cityofdaytonmn.com> wrote:

Good morning Randy,

Thank you again for your time today. Please feel free to email me back with you comments regarding the subject item.

Thank you,

ITEM:

Discussion: A-3 Agricultural District

APPLICANT/PRESENTERS:

City of Dayton

PREPARED BY:

Jon Sevald, Community Development Director

BACKGROUND/OVERVIEW:

In June 2024, the Planning Commission and City Council reviewed a concept plan for the Schany Parcel, located west of Lake Laura on North Diamond Lake Road. The 104 acre parcel was proposed for 13 lots (unsewered). The property is zoned A-1 Agricultural (40-acre minimum lot size) and guided Low Density Residential in the 2040 Comprehensive Plan (sewered, 2-5 units per acre density). The land is in the Post-2050 sewer staging plan, meaning development is premature until regional sewer becomes available in 30+ years.

During the concept plan review, the City Council and Planning Commission were supportive of the project remaining unsewered. The Council's direction is to pursue creating an A-3 district to allow unsewered development with the intent of preserving Dayton's rural character. Thicket Hill (north of the Shaney parcel) is the example (10-acre lots), platted in 1993.

In September 2024, the Mayor and City Staff met with Metropolitan Councilmember Judy Johnson and Metcouncil staff to discuss removing part of Dayton from the 2040 Metropolitan Urban Services Area (MUSA) to allow unsewered development on less than 10-acres, or other alternatives to allow unsewered development.

The Metcouncil stated that all of Dayton is going to remain in the MUSA, but that the Metcouncil would consider flexible development guidelines (see attached). In summary, the Metcouncil would allow unsewered residential development with an average net density¹ of 10-acres under the condition that such development would not prohibit re-development once regional sewer becomes available.

Northwest Dayton is the end of the city's Ultimate Sewer Plan.² The Draft A-3 district boundary includes this area, and loosely follows the Elk River School district boundary, north of North Diamond Lake Road. The A-3 area includes about 1,600 acres and 82 homes, meaning the A-3 district could accommodate about 78 additional homes.

The overall intent of the A-3 district is to provide an alternative for new residential development other than on sewer ¼ acre lot subdivisions, while preserving rural character. The A-3 district

¹ Draft Imagine 2050 Land Use Policy, Objective 1, Policy P2, A3(iii); "Measuring minimum net density by taking the minimum number of planned housing units and dividing by the net acreage. Net acreage does not include land covered by wetlands, water bodies, public parks and trails, public open space, arterial road rights-of-way, and other undevelopable acres identified in or protected by local ordinances such as steep slopes."

² 2040 Comprehensive Plan, Figure 9.2 Ultimate Sewer Map.

PLANNING COMMISSION MEETING

would preserve a rural corridor along Lawndale Lane and allow development similar to Thicket Hill.

CRITICAL ISSUES:

1. A-3 district boundary. Where should the boundary be? Please use the attached Base Map to draw your thoughts.
2. A-3 minimum lot size. What should the minimum lot size be, keeping in mind the intent is to preserve rural character.

60/120-DAY RULE (IF APPLICABLE):

	60-Days	120-Days
N/A	(date)	(date)

RELATIONSHIP TO COUNCIL GOALS:

Build Quality Infrastructure
Planning Ahead to Manage Thoughtful Development
Preserving our Rural Character
Create a Sought After Community

ROLE OF PLANNING COMMISSION:

Provide direction on Critical Issues.

RECOMMENDATION:

None. This is intended to be a high-level discussion with more detailed discussions to occur in winter, 2025.

ATTACHMENT(S):

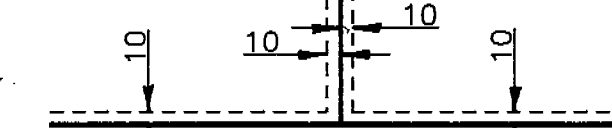
Thicket Hill
Base Map (draw on it)
Draft A-3 District Boundary
2040 MUSA Boundary
Flexible Residential Development

THICKET HILL

○ Denotes Iron Monument



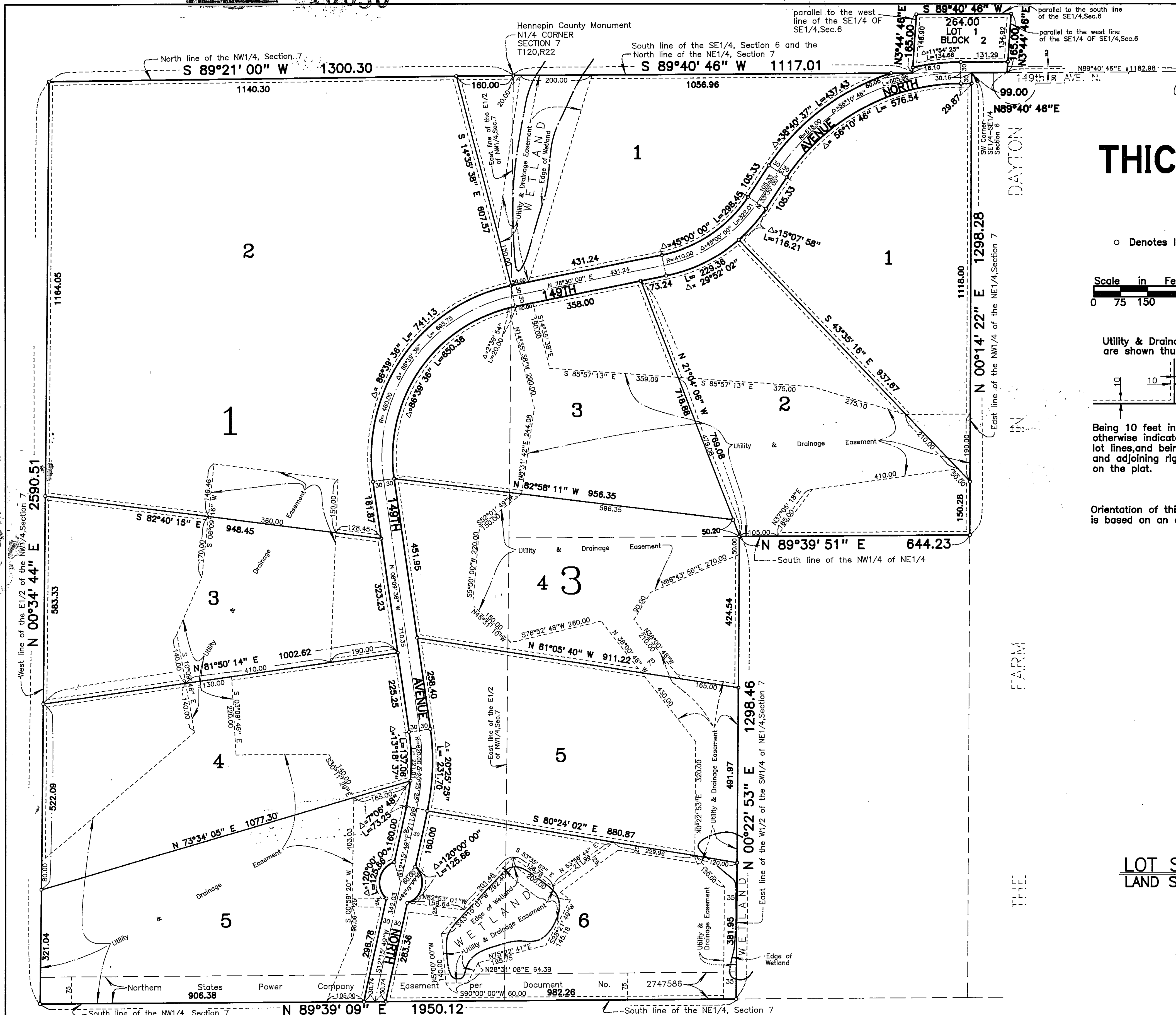
Utility & Drainage Easements are shown thus:

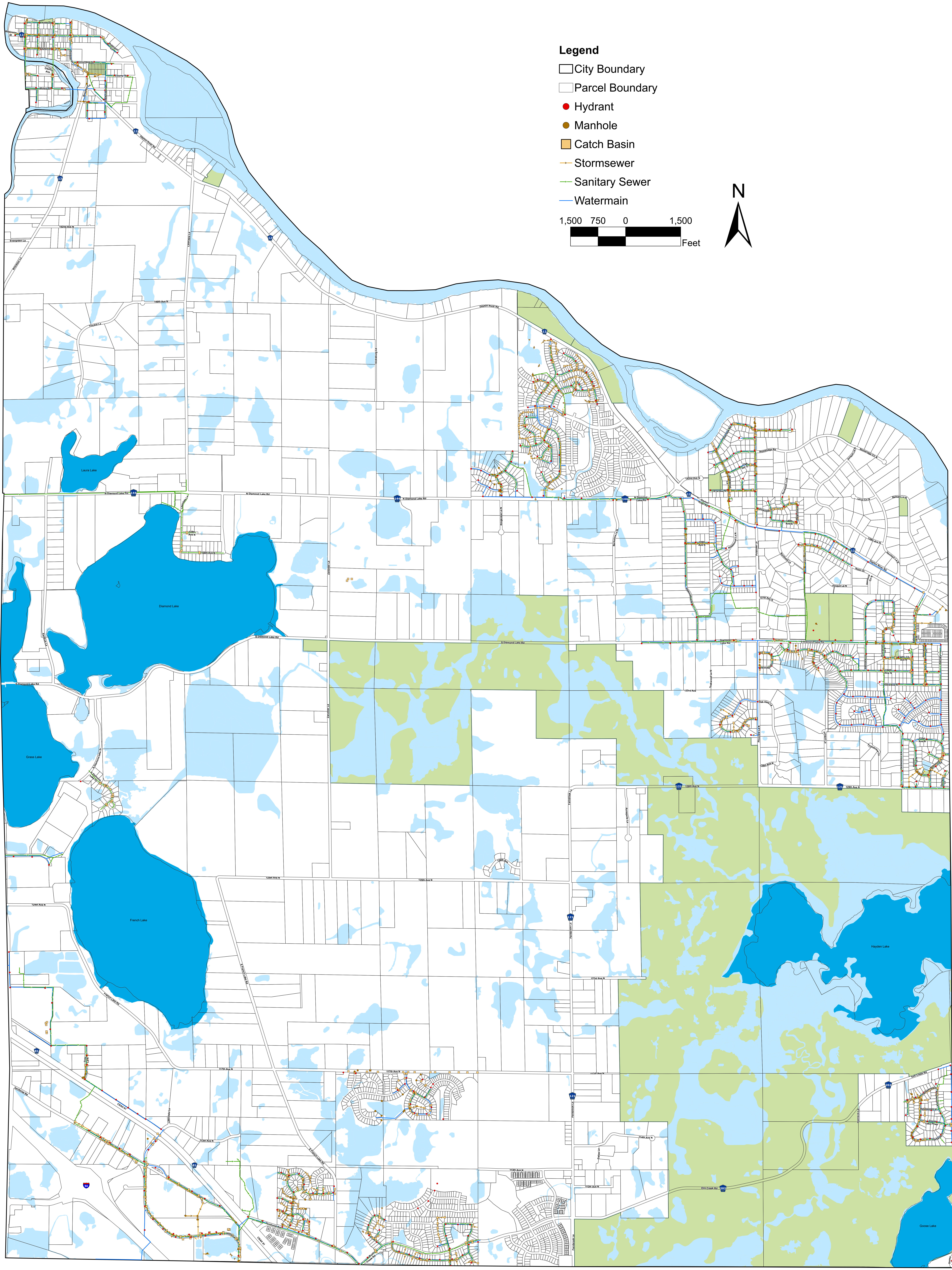


Being 10 feet in width, unless otherwise indicated and adjoining lot lines, and being 10 feet in width and adjoining right of way lines, as shown on the plat.

Orientation of this bearing system is based on an assumed datum.

LOT SURVEYS COMPANY, INC.
LAND SURVEYORS

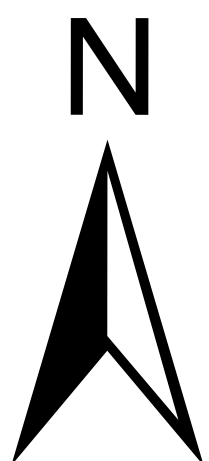




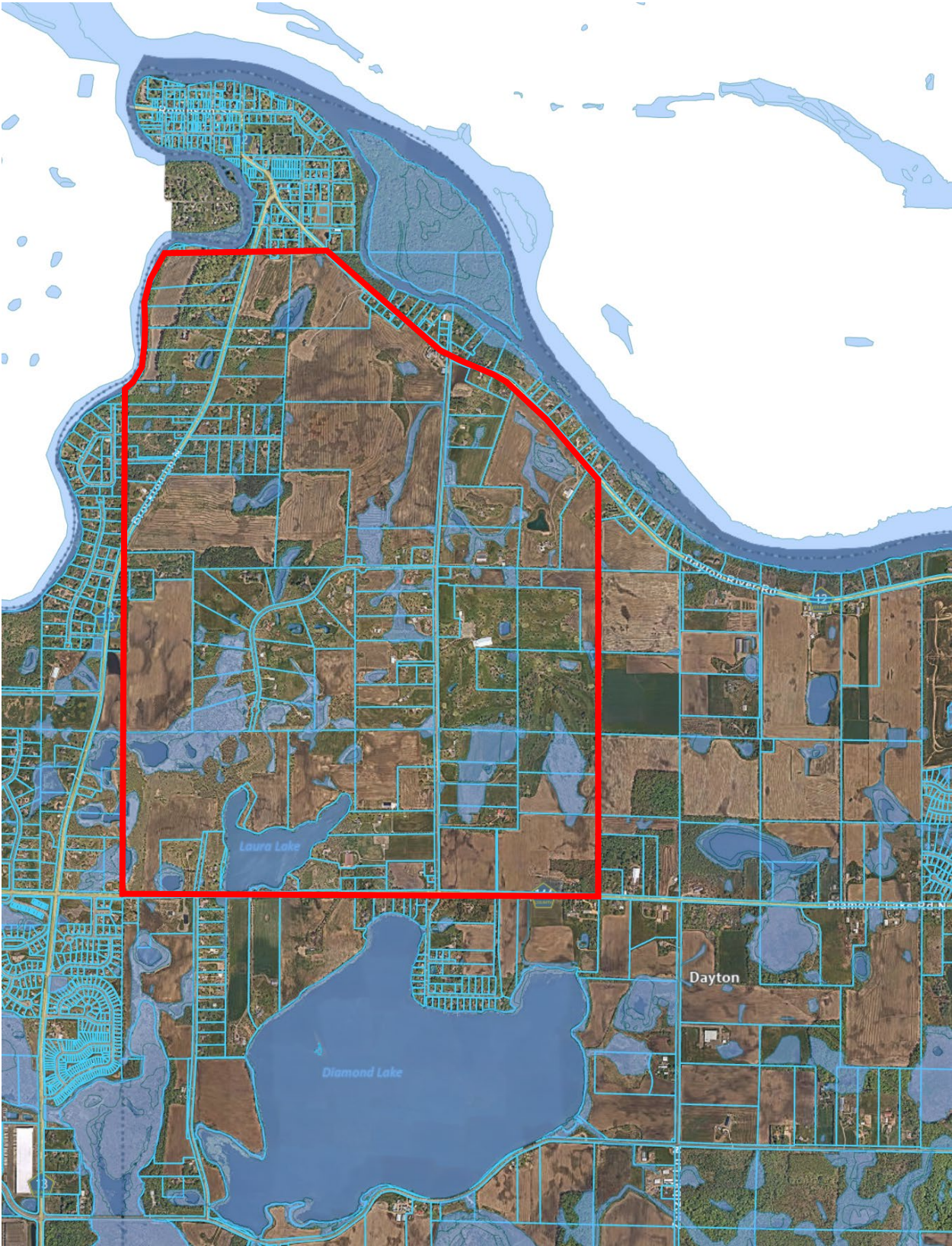
Legend

- City Boundary
- Parcel Boundary
- Hydrant
- Manhole
- Catch Basin
- Stormsewer
- Sanitary Sewer
- Watermain







1,500 750 0 1,500
Feet



DRAFT A-3 Zoning District Boundary



[illegible]

-  No MUSA
 Interstate Highway
 Major Highway
 Local Road
 Community Boundary
 County Boundary

** Shakopee Mdewakanton
Sioux Community (SMSC)

July 2024



FLEXIBLE RESIDENTIAL DEVELOPMENT EXAMPLES FOR THE DIVERSIFIED RURAL AREA

Background

Thrive MSP 2040 indicates that land use patterns in [Diversified Rural](#) communities are home to a variety of farm and non-farm land uses including very large-lot residential, clustered housing, hobby farms, and agricultural uses. Some Diversified Rural communities are also located in the Long-term Wastewater Service Area (LTSA). These areas are designated to ensure land availability to accommodate growth post-2040 at the edge of the urbanizing area.

Purpose

The purpose of flexible residential development ordinances and tools in these areas should be to preserve land for post-2040 growth and to accommodate the future extension of regional urban services. In August 2008, the Council adopted [Flexible Residential Development Ordinance Guidelines for the Diversified Rural Area](#) that describes the factors communities should take into account if they are considering allowing residential development at densities greater than 4 units per 40 acres in their communities. The Council has since incorporated these guidelines into *Thrive MSP 2040*.

Function

For those communities on the edge of the urbanizing area, designated as part of the LTSA, residential development ordinances should provide for interim land uses without precluding the opportunity for future development at densities of at least 3 units per net developable acre to ensure future, cost-effective and efficient regional wastewater treatment services. For areas outside of the LTSA, the Council also encourages the clustering of homes, particularly when communities are considering densities greater than 4 units per 40 acres.

Communities should study and assess their landscapes to refine their development priorities. There may be areas within the community that contain an abundance of sensitive natural resources or that the community has identified as a greenway or conservation corridor. These areas may not be most suitable for future urbanization as the capability of the land to support development is low and constrained. In these cases, open space development or cluster development may be adapted to protect those resources to meet the community's goals.



The Fields of St. Croix, Lake Elmo

Flexible Residential Development Guidelines

In considering ordinances and development that exceeds the 4 units per 40 acres density, communities should apply the following guidelines:

1. Include the need to reserve land resources for efficient future urban development as part of the ordinance purpose.
2. Identify the land characteristics required to support future urbanization.
3. Allow no more than 25% of the developable land in a project to be developed, reserving larger future urbanization parcels.
4. Protect future urbanization parcels with temporary development agreements, easements, or deed restrictions.
5. Provide for the rezoning of the future urbanization parcels to a residential zoning classification at densities consistent with Council policy at such time that urban services are available.
6. Encourage the use of community wastewater treatment systems to serve the temporary cluster.

Please refer to the full document, [Flexible Residential Development Ordinance Guidelines for the Diversified Rural Area](#), for more information on these six guidelines.

Flexible Residential Ordinance Tools

If a community wishes to allow for increased densities within the Diversified Rural area beyond 4 units per 40 acres, the community should use mechanisms to allow for the future development of the land at urban development densities of at least 3 units per net developable acre. There are a number of tools that communities have utilized to meet these goals, including but not limited to the following:

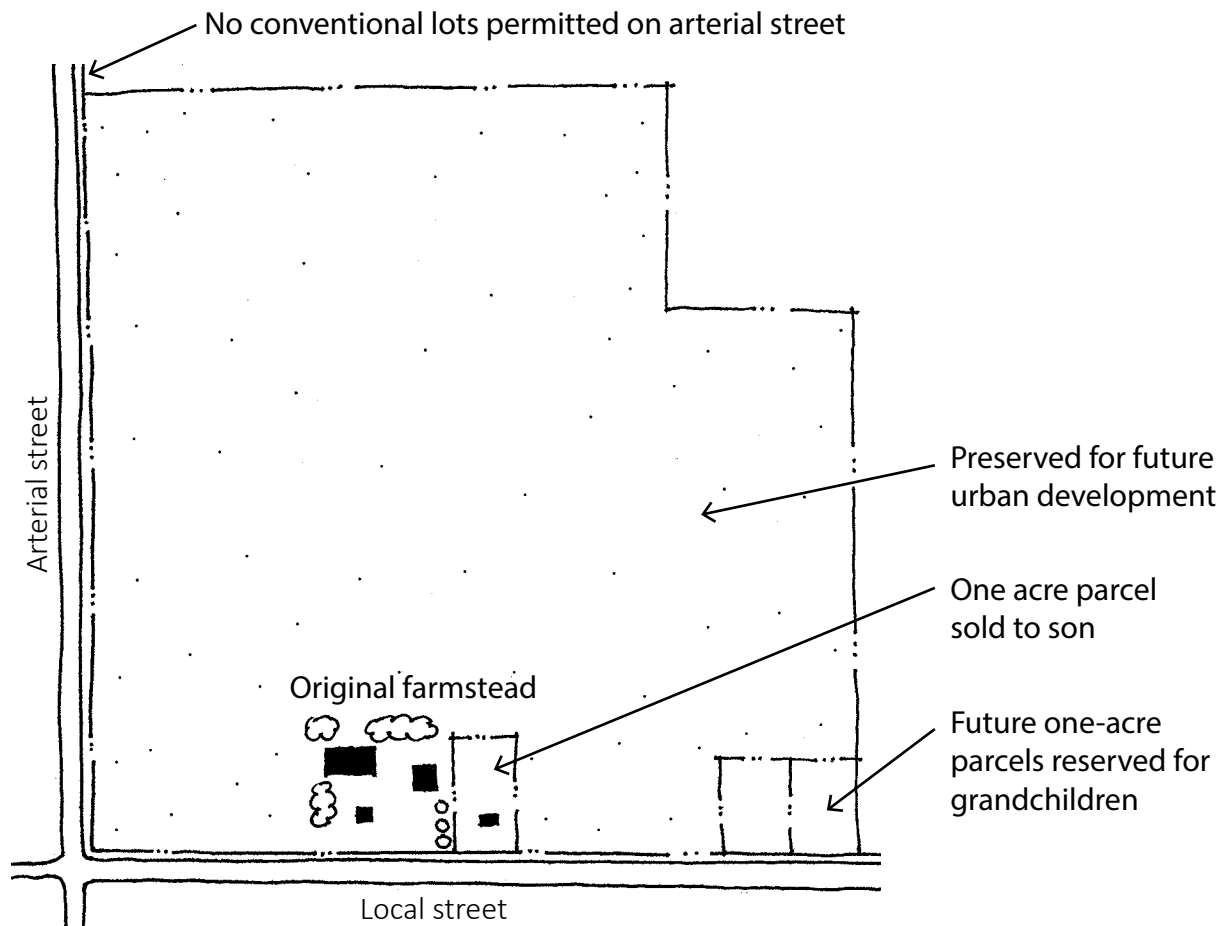
1. Adopt Cluster Ordinances to preserve open space and allow future urbanization.
2. Permit density bonuses for meeting certain specified ordinance requirements.
3. Use of Planned Unit Development (PUD) regulations to manage development and preserve open space.
4. Require Build-Out Plans (Ghost Platting) to demonstrate future subdivision for the delivery of urban services.
5. Employ platting techniques along with deed restrictions, easements, and covenants to protect open space for future development.
6. Use of overlay districts in specified areas to ensure mandatory clustering; for example, on land adjacent to urban service areas.

If a community adopts regulations to allow densities in the Diversified Rural area which exceed 4 units per 40 acres, the Metropolitan Council will need to review any revised ordinance details to ensure compliance with the community's Comprehensive Plan and future expansion of urban services.

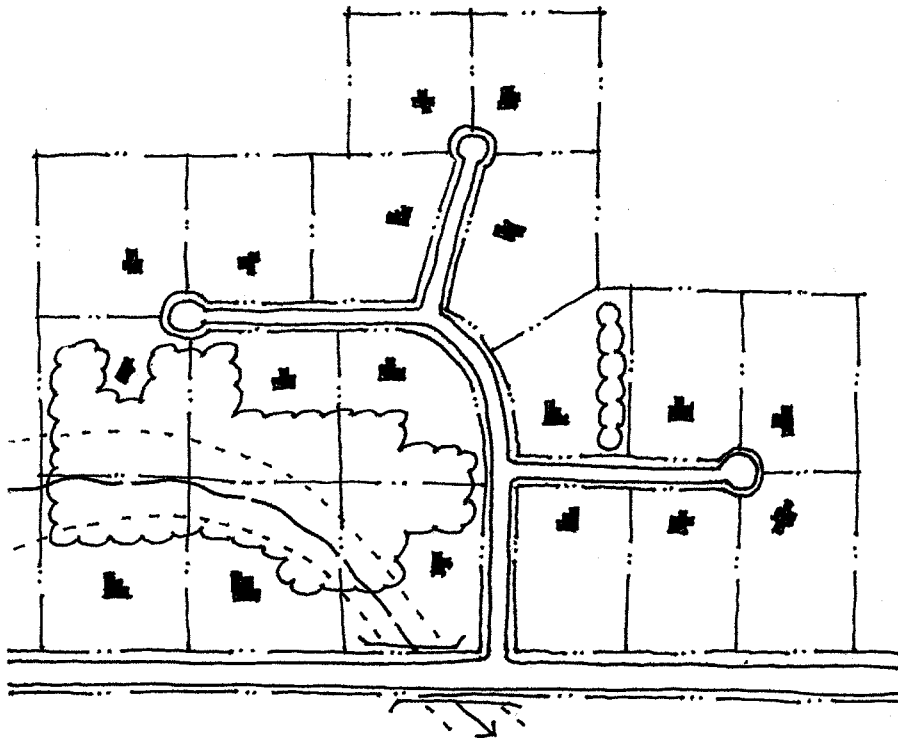
FLEXIBLE RESIDENTIAL DEVELOPMENT EXAMPLES

There are many different development styles a community might use to allow for current development while reserving land for future urban development. This section describes some of the development patterns available to communities.

Traditional Rural Cluster



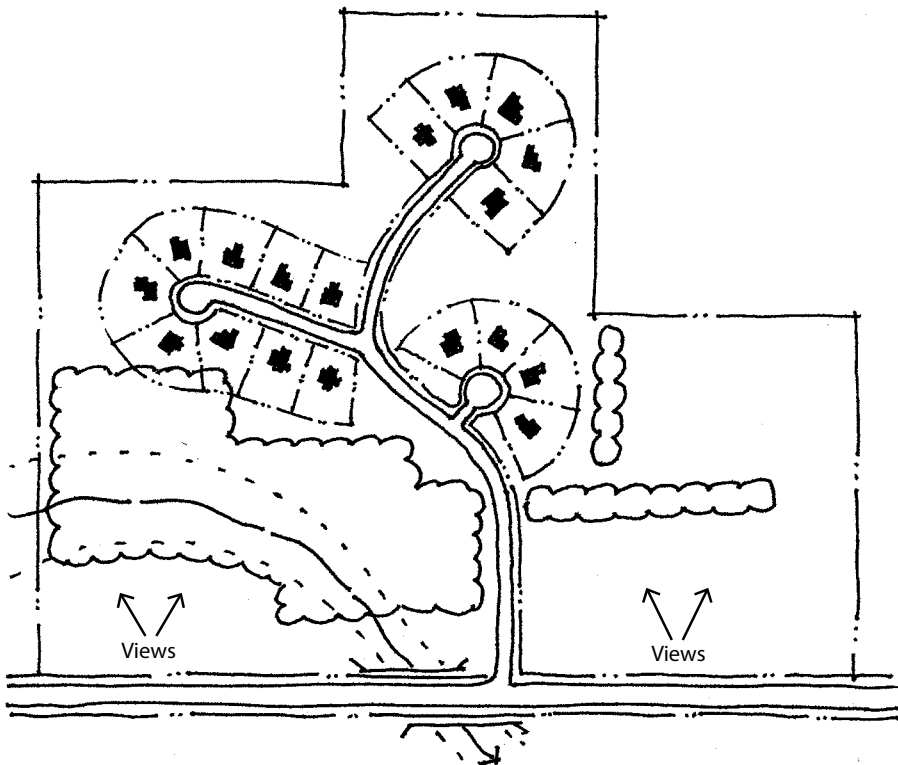
The traditional rural cluster above shows that a mandatory cluster district may allow for a defined, limited number of lot splits within a contiguous rural acreage if certain parameters are met, such as specified lot sizes and frontage on a local street. The above example allows for future subdivision of the residual parcel to allow for urban services. This method of subdivision would need to be tracked by the municipality over time to ensure that sufficient land is preserved to allow for a subdivision layout at acceptable densities and access to allow for future urban services.



Conventional Development

Acres: 80
 Lots: 18
 Density: 1 unit per 3.3 acres
 Minimum lot size: 3 acres
 Common open space: 0%

Note: No conventional lots are typically permitted on an arterial street.



Rural Cluster

Acres: 80
 Lots: 18
 Density: 1 unit per 3.3 acres
 Minimum lot size: 1/2 acre
 Common open space: 75%

Credit: Adapted from Rural Cluster Development Guide, Southeastern Wisconsin Regional Planning Commission

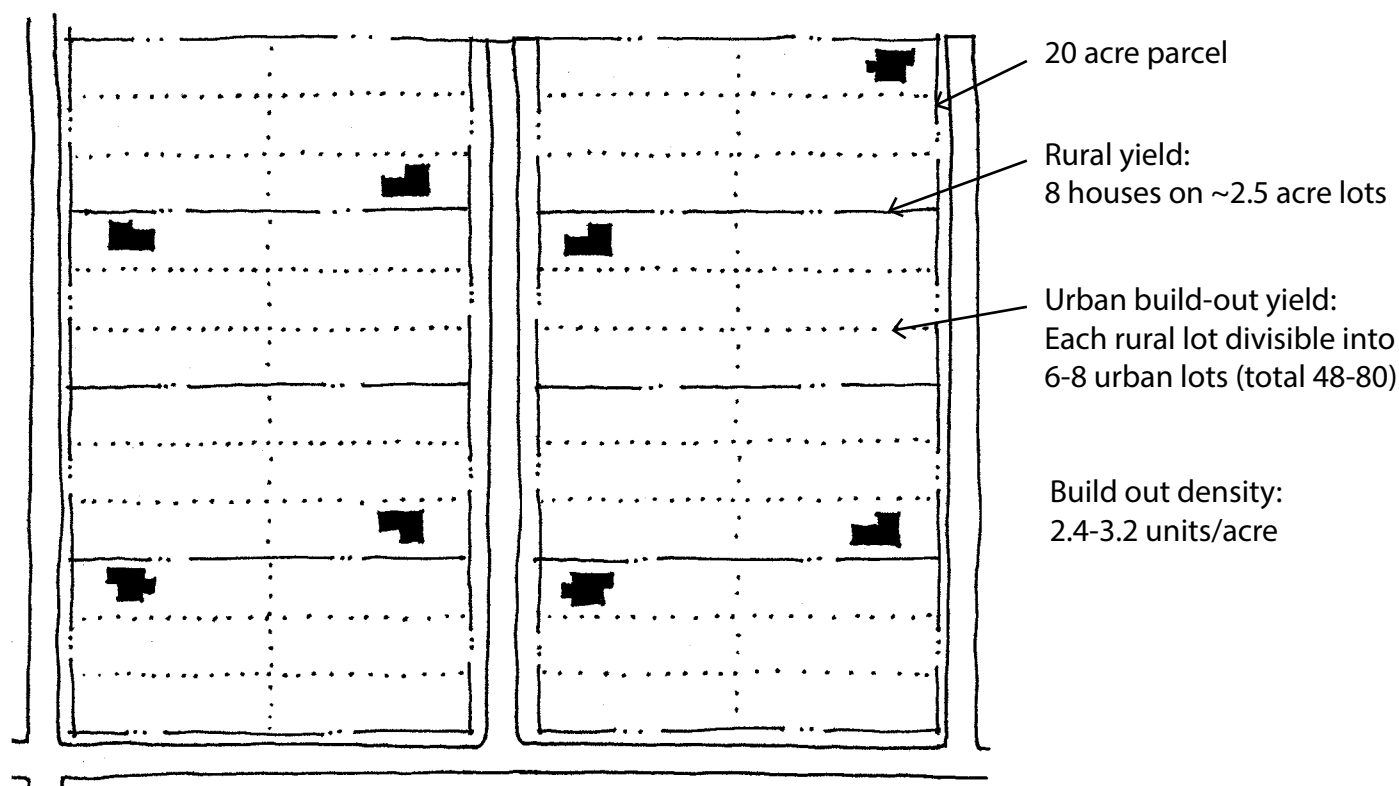
The Rural Cluster Development shows a more proactive approach to the preservation of land for future urban service balanced with the preservation of natural resources.

The first image shows a conventional large-lot rural development which precludes the provision of urban services due to the ineffective lot layout and inefficiency of multiple or long-distance connection points to urban services. The Council has found that this style of large-lot rural development does not advance the mission of ensuring orderly and economical development in the region.

The second example, of a rural cluster development, preserves high amenity open space for resource protection and recreation, while ensuring a compact lot layout which allows for effective delivery of urban services. Additional urbanized development may be accommodated in the eastern portion of that site as well. The Rural Cluster Development may utilize a communal septic system until such time that urban services become available.

Build-Out Plan (Ghost Platting)

The Build-Out Plan, or ghost platting, is a method of master planning for future urban densities in rural large-lot subdivisions. The subdivision is organized in a way that will facilitate a transition to higher density at some future date, perhaps through the use of development or service infrastructure triggers. This is often achieved by restricting the location of buildings to avoid obstructions to future utility and roadway easements. Platting for future urban densities is achieved by establishing lines for future splits of large lots into smaller lots and dedication of rights-of-way and easements for future streets, utilities, storm water facilities, etc. This method of subdivision is another front-loading process which preserves land for future urbanization. Oftentimes, the Build-Out Plan may limit the location and size of the residential footprint to more effectively allow for future subdivision of lots.

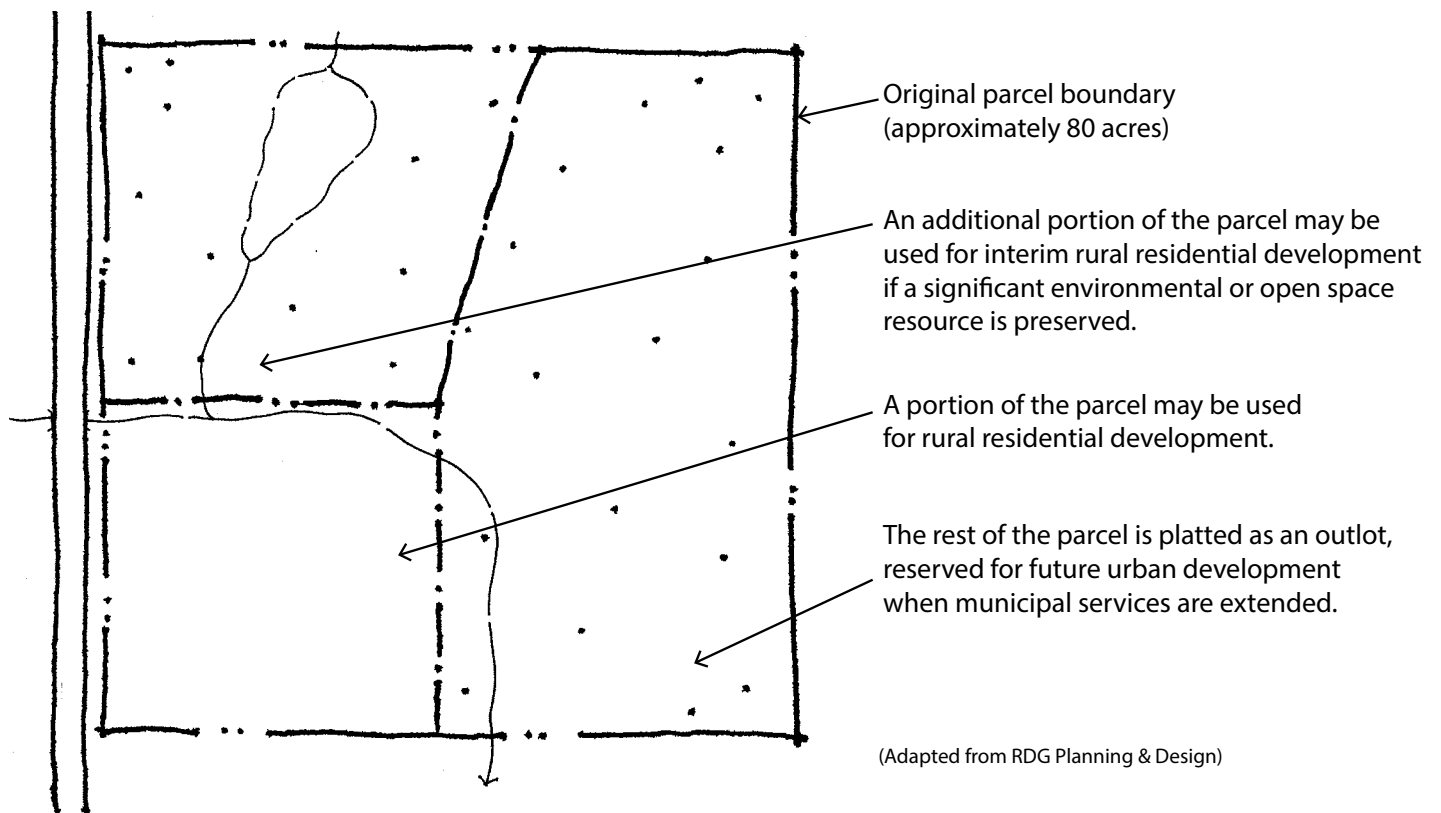


Note: In this scenario no conventional lots are permitted on arterial street, but rather all front on local streets.

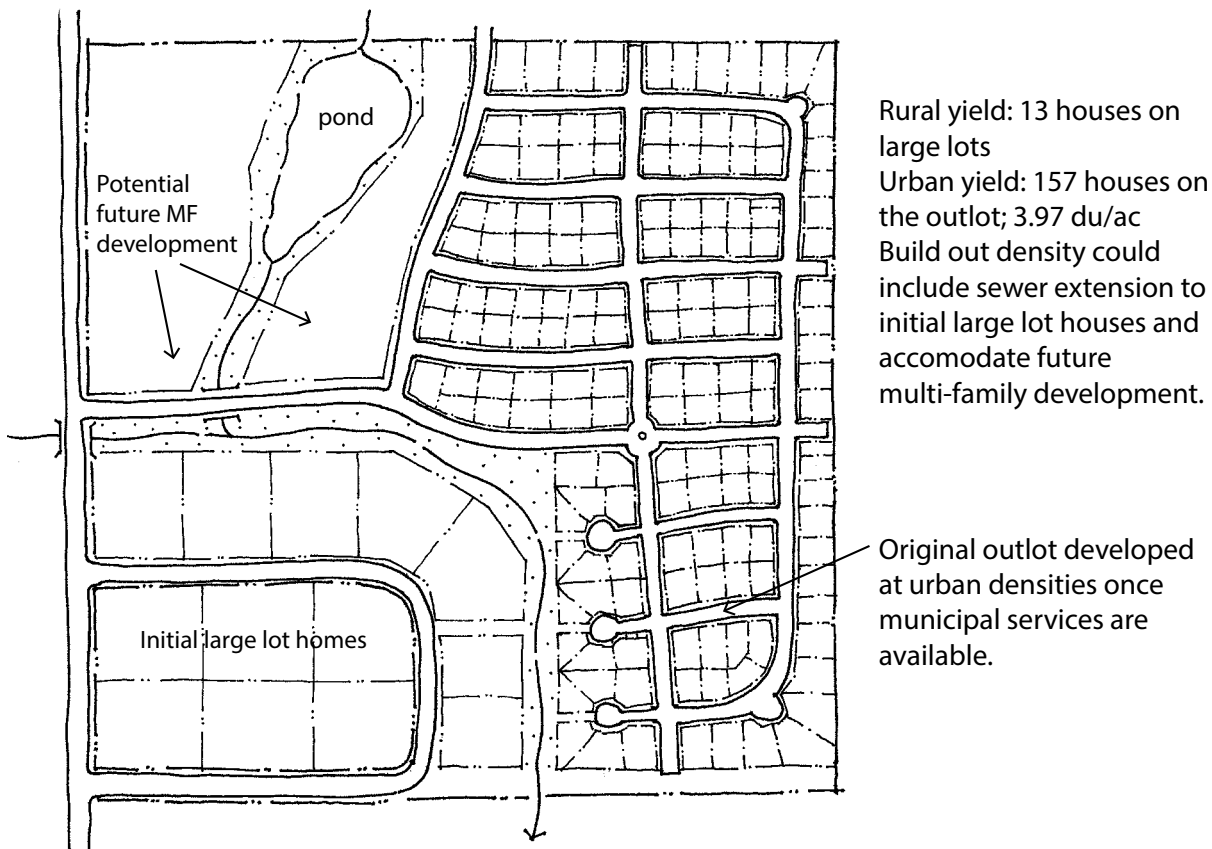
Build Through Acreages

Build Through Acreages can allow for development at lower densities while preserving open space for future development through the platting process. A large outlot can be established to allow for future development at densities that can allow for urban service expansion. The outlot may also be encumbered with deed restrictions, covenants, or easements to provide the interim protection of open space and maintain subsequent triggers for development and service delivery.

This method can also be useful in areas in a Rural Residential community designation that may benefit from clustering, but are still undeveloped in the conventional large-lot pattern. In these cases, it may be advisable to preserve land for future residential development if the outlot abuts land within the Council's Long Term Service Area.



The example below, adapted from Bismarck, North Dakota, shows an historic outlet which was subdivided into smaller lots once urban services became available to the east.



March 2017