



**CITY OF NORTH OAKS**

**Regular City Council Meeting  
Thursday, January 09, 2020  
7 PM, Community Meeting Room  
100 Village Center Drive**

**MEETING AGENDA**

1. **Call to Order**
2. **Roll Call**
3. **Pledge of Allegiance**
4. **Public Hearing**
5. **Approval of Agenda**
6. **Citizen Comments** - *Individuals may address the Council. Each person is granted 3 minutes to address the Council*
7. **Consent Agenda** - *These are items that are considered routine and can be acted upon with one vote.*
  - a. Licenses for approval:  
Aquarius Home Services; Assured Comfort Heating and Air Conditioning LLC; B & D Plumbing, Heating & A/C; Branch and Bough Tree Service; CMS Mechanical Services, LLC; Corval Constructors, Inc; Elander Mechanical, Inc; Hearth & Home Technologies LLC( dba Fireside; Home Energy Center; Hugo's Tree Care, Inc.; Kraus-Anderson Construction Company; Krinkie Heating and Air Conditioning Co.; Major Mechanical; Metropolitan Mechanical Contractors, Inc.; Northern Arborists; Pronto Heating & Air Conditioning; Quality Turf Maintenance; Sabre Plumbing Heating & A/C; Schulties Plumbing, Inc.; S & R Appliance Repair; Standard Heating & Air Conditioning, Inc.; Tree Top Clearing; Vineland Tree Care; Woodchuck Tree Care; YTS Companies LLC
  - b. Resolution 1369 to approve 2020 Partnership Agreement with Northeast Youth & Family Services  
[NYFS 2020 Partnership Agreement.pdf](#)  
[1369. Approving 2020 Partnership Agreement with Northeast Youth & Family Services KK 1-8-2020.docx](#)
  - c. Claims for Approval: Check # 013394-013423

- d. Council Minutes for Approval from 12.16.19 and 12.19.19  
[12-16-2019 Special City Council Meeting\\_Draft.docx](#)  
[12-19-2019 Council Minutes - Final Draft.docx](#)
- e. Resolution 1375 Naming Check Signatures: ADDED TO THE AGENDA ON 1/7/2020  
[1375. Approving Check Signators.docx](#)
- f. Resolution 1364A: Amending Approving Final 2019 Tax Levy  
[1364A. Amending Approving Final 2020 Tax Levy.docx](#)

**8. Petitions, Requests & Communications**

- a. Presentation by Kelly and Lemmons Prosecution Overview 2019  
[Year End Report 2019.docx](#)
- b. Report from Building Inspector Kevin White: Annual Building Report  
[2019 Annual Report - Building Inspector.pdf](#)
- c. Report From Mark Rehder Tree Inspector  
[North Oaks 2019 Annual Report.pdf](#)
- d. Report From Brian Humpal Septic Inspector  
[2019 NO SSTS Summary.pdf](#)

**9. Unfinished Business**

- a. East Oaks PDA Review  
[East Oaks City Atty Memo 11.04.19.pdf](#)  
[East Oaks City Atty Housing Count Notes.pdf](#)  
[MEMO-East Oaks 7th Amendment.docx](#)  
[East Oaks PDA Appendix 1 Housing Counts.pdf](#)  
[East Oaks PDA Exhibit B Housing Counts.pdf](#)  
[7th Amendment Maps with color.pdf](#)  
[Ramsey County Map with Colors 11-11-19 \(002\).png](#)
- b. Discussion on Putting New Water Meters in Charley Lake Preserve and Red Pine Farms  
[REQUEST FOR COUNCIL ACTION 1-9-20 Item Discussion on Putting New Water Meters in Charley Lake Preserve and Red Pine Farms.doc](#)
- c. Discussion on Request for Campaign Finance Reform

**10. New Business**

- a. Resolution 1370 Setting the 2020 Appointments/City Responsibilities  
[Resolution 1370 Setting the Year 2020 Appointments.City Responsibilities.xlsx](#)

- b. Resolution 1371 Authorizing Electronic Signature  
[RESOLUTION 2020-1371 Electronic signature 1-3-2020 kk.docx](#)
- c. Resolution 1372 Appointing Planning Commission Member  
[Resolution 1372 Appointing Planning Commission Member 1.03.19 kk.doc](#)  
[REQUEST FOR COUNCIL ACTION 1-9-20 Planning Commission.doc](#)
- d. Resolution 1373 Board & Commission Appointment Policy  
[Resolution 1373 Establishing policy for appointing boards commissions.doc](#)  
[Board Commission Appoint Policy 12-3-19\\_gn.docx](#)
- e. Resolution 1374 Establishing Code of Conduct Policy  
[Resolution 1374 establishing code of conduct.doc](#)  
[Policy 1374 Establishing a Code of Conduct 1-6-20](#)
- f. Ordinance 134 Adopting 2020 Fee Schedule  
[2020 Fee Schedule\\_FINAL.xlsx](#)
- g. Consider Proposal to Update Comprehensive Utility Plan  
[NO\\_2020\\_CompUtilityPlanUpdate.pdf](#)

**11. Council Member Reports**

**12. City Administrator Reports**

NRC Meeting Minutes from October 17, 2019  
[10-17-19 NRC Minutes.pdf](#)

Staff Report

[REQUEST FOR COUNCIL ACTION 1-9-20 cc agenda staff report.doc](#)

**13. City Attorney Reports**

**14. Miscellaneous**

**15. Adjournment**

**RECEIVED**

**DEC 23 2019**

**City of North Oaks**

December 19, 2019

Mike Robertson  
City Manager  
City of North Oaks  
100 Village Center Drive, #150  
North Oaks, MN 55127

Dear Mike,

Enclosed is the 2020 partnership agreement with Northeast Youth & Family Services. I have also included the addendum referenced in section III-B Services Provided and Exhibit A referenced in section III-D-2 Funding.

Please sign and return a fully executed copy of the agreement to me. You can either send a hard copy through the mail or a pdf electronically. Either way we need a copy in our files for our audit.

We appreciate our partnership with you and look forward to another year of working in concert to serve the residents of our community. I will reach out to you in early January about setting up our annual presentation to the council.

If you have any questions or need more information, please don't hesitate to contact me.

Sincerely,



Jerry Hromatka  
President & CEO

# AGREEMENT

## I. PARTIES

This agreement is made and entered into by and between the City of North Oaks Minnesota ("City") and Northeast Youth and Family Services ("NYFS").

## II. RECITALS

- A. NYFS is a non-profit social service agency whose mission is to meet the unmet developmental needs of at-risk youth and families within their community environment with emphasis on providing services through collaboration and coordination with existing community resources. These services are available to youth and families residing in the northern suburbs of Ramsey County, including, but not limited to, the municipalities which are signatory to agreements which are identical to this Agreement ("participating municipalities") and students and families from Independent School Districts 621, 622, 623, 624, 282 and 832.
- B. Through this Agreement the City intends to contract with NYFS to provide such services to its residents and to act as a sponsor of NYFS by providing financial support, a method to establish appropriate services to be provided and policy guidance for its activities.
- C. This Agreement shall be used as the formal agreement between NYFS and each of the participating municipalities. This Agreement is intended to continue the spirit of cooperation and collaboration in the provision of social services between the City and NYFS.

## III. TERMS AND CONDITIONS

In consideration of the mutual understandings of this Agreement, the parties hereby agree as follows:

- A. Prior Agreements Cancelled. By execution of this Agreement any prior agreements and amendments thereto between the parties are hereby cancelled.
- B. Services Provided. NYFS shall provide the City and its residents with youth and family programs set forth in the Addendum attached hereto.
- C. Principles of Service and Program Establishment and Operations. On a yearly basis and prior to submission of its annual budget, as provided for hereafter, NYFS shall:
  - 1. Report regarding proposed changes in services and programs to the City; and

2. Establish a fair and open bidding/request for proposal (RFP) process to contract, manage or provide such services and programs, which are not directly provided by NYFS staff.

**D. Funding**

1. In addition to the participating municipalities' share of the annual budget, funds for the operation of NYFS will be raised by NYFS endeavoring to secure user fees, grants and appropriations from private organizations, the State of Minnesota, Federal and County agencies, and other legal and appropriate sources.
2. The City shall pay annually to NYFS the base amount listed in Exhibit A. This base amount will be adjusted annually for inflation/deflation using the Standard Metropolitan Statistical Area Consumer Price Index for All Urban Consumers (CPI-U). Such adjustment shall not exceed plus or minus 3% in any year. Any adjustment in the payment beyond those indicated by reference to the CPI-U shall require approval of each of the participating municipalities.
3. Any new City joining into this agreement will pay a base amount annually to NYFS that is on par with the amount paid by current participating municipalities.
4. Amounts payable by the City shall be paid to NYFS on or before January 30<sup>th</sup> of each year, or at a date mutually agreed upon by both parties, to cover the City's share for that year.

**E. Board of Directors.** This agreement is contingent upon the City having the right to a seat on the Board of Directors. The Board of Directors shall be limited to not more than 30 Board members.

**F. Further Obligations of NYFS.** In addition to the obligations set forth elsewhere in this Agreement, this Agreement is further contingent upon NYFS doing the following:

1. The Bylaws of NYFS shall be amended to add provisions requiring an open process for contracting services as provided for in paragraph C.2., above, and prohibiting NYFS from supporting or opposing individual candidates for election to public office in any of the participating municipalities; and adding the requirement that IRS 501.C3 status be maintained.
2. On or before June 30, of any year NYFS shall submit the proposed city budgeted amount for the subsequent year.

3. On or before November 30, of any year NYFS shall submit a written report to the City including an Annual Report, the audited financial statement, and a program specific summary of services provided to the municipality; in addition, 30 days from the end of each calendar quarter, NYFS shall submit a written report to the participating municipality.
  4. Periodically advising the City of services available through NYFS to the City's residents;
  5. Establishing a sliding scale for services available through NYFS to the City's residents and periodically advising the City of such fees;
  6. Providing other reasonable information requested by the City;
  7. Purchasing a policy of liability insurance in the amount of at least \$1,500,000.00, naming the City as an additional insured and providing a copy of the insurance certificate evidencing such policy to the City;
  8. Provide the City with a copy of its Articles of Incorporation, Bylaws, Amendments thereto, and the IRS tax exempt status letter;
  9. NYFS shall defend and indemnify the City from any and all claims or causes of actions brought against the City of any matter arising out of this Agreement or the services provided pursuant to this Agreement; and,
  10. Without the written approval of the City, NYFS will not enter into any agreement with any other city which differs from the terms and conditions of this Agreement.
- G. Term. The term of this agreement will be through December 31, 2020. Unless either party gives at least 6 months written notice of its intent to cancel this Agreement effective December 31 of the year in which the notice is made, NYFS will continue to provide services to the City if a successor agreement has not been executed prior to the end of the term.
- H. (A) Distribution of Assets Upon Dissolution.

If NYFS ceases to operate, the Board of Directors will do one of the following:

1. Give the assets to one or more non-profit agencies providing similar social services in the northern suburbs of Ramsey County; or,
2. Form a new Foundation to fund appropriate social service programming in the northern suburbs of Ramsey County.

The final Distribution of Assets Plan must be approved by the Ramsey County District Court.

(B) Deviation from the Mission.

If the City Council determines that NYFS has materially deviated from its mission (See II. Recitals, A.), the City Council may ask the NYFS Board of Directors to consider dissolving the agency and liquidating the assets. The Board will do one of the following:

1. Consider the request and by a majority vote deny it.
2. Consider the request and by a majority vote agree to modify the programs to be consistent with the mission.
3. Consider the request and by a majority vote agree with the request and move to dissolve the agency and liquidate the assets.

**IN WITNESS WHEREOF**, the parties have executed this Agreement on this date set forth below.

**CITY OF NORTH OAKS**

By: \_\_\_\_\_  
Elected Official

Its: \_\_\_\_\_  
Clerk/Manager

Dated: \_\_\_\_\_

**NORTHEAST YOUTH & FAMILY SERVICES**

By:  \_\_\_\_\_  
President/CEO

Its:  \_\_\_\_\_  
Chair of the Board of Directors

Dated: 12/19/2019

12/2019

**Northeast Youth & Family Services  
City Participation Figures**

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
North Oaks	6,206 2.1% increase CPI-U 6-14	6,230 .04% increase CPI-U 6-15	9,000 1.0% increase CPI-U 6/15	9,126 1.4% increase CPI-U 6/15	9,382 2.8% increase CPI-U 6/15	10,020 6.8% increase CPI-U 6/15

## **Northeast Youth & Family Services**

NYFS services fall into three categories: mental health services and youth development services and community case management services. By providing services in these areas within one agency, we can provide a continuum of care. This has proven beneficial because although mental health, youth development and community case management services have similar goals, their distinctions also complement each other.

### **Contracted Services**

#### **Mental Health Services:**

- *Mental Health Counseling* – licensed mental health staff provide therapy for the emotional health of children, teens and adults.

#### **Youth Development Services:**

- *Youth Diversion* – a coordinated range of services for youth who have committed minor offenses (e.g. shoplifting, chemical/alcohol use, vandalism) to help them focus on positive behavior and prevent recidivism.
- *Senior Chore Program* – youth and other adults complete seasonal and household tasks to help seniors remain independent.

### **Non Contracted Services**

#### **Mental Health Services:**

- *Northeast Educational & Therapeutic Services (NETS)* – provides therapy and academic support for youth in grades 6-12 with severe mental illnesses who can not function in traditional school environments.

#### **Community Case Management Services:**

- *Community Case Management* – helps households access and utilize resources to reduce stress.

**CITY OF NORTH OAKS  
RAMSEY COUNTY, MINNESOTA  
RESOLUTION NO. 1369**

**RESOLUTION TO APPROVE 2020 PARTNERSHIP AGREEMENT WITH  
NORTHEAST YOUTH & FAMILY SERVICES**

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**WHEREAS, the Northeast Youth & Family Services mission is to prepare youth and families for healthy lives;**

**WHEREAS, the City of North Oaks greatly values the contributions Northeast Youth & Family Services has provided for North Oaks residents for more than 30 years;**

**WHEREAS, Northeast Youth & Family Services of Minnesota constructed the Discovery Center to provide hands-on, experimental learning and physical activity;**

**WHEREAS, Northeast Youth & Family Services utilizes the Discovery Center to better meet the needs of its clients;**

**WHEREAS, the Discovery Center is a community resource for youth sports, meetings, festivals, and family celebrations;**

**WHEREAS, an estimated 9,000 participants are expected to utilize the Discovery Center annually; and**

**NOW THEREFORE BE IT RESOLVED, that the City of North Oaks approves the 2020 partnership agreement with Northeast Youth & Family Services.**

Adopted by the City Council of the City of North Oaks this 9th day of January 2020.

By: \_\_\_\_\_  
Gregg Nelson  
Its: Mayor

Attested:

By: \_\_\_\_\_  
Kevin Kress  
Its: City Administrator/City Clerk

The Special City Council Meeting was called to order at 7:00 p.m. by Mayor Gregg Nelson. Present were Councilmembers Rick Kingston, Marty Long, Kara Ries, and Katy Ross; City Administrator Kevin Kress, City Planner Bob Kirmis, and Recording Secretary Gretchen Needham.

1. Call to Order

2. Roll Call

3. Pledge of Allegiance

4. Approval of Agenda:

Councilmember Kingston motioned to approve the Agenda, which was seconded by Councilmember Ries. The motion was unanimously approved.

5. Citizen Comments

There were no comments from citizens present at the meeting.

6. Consent Agenda:

a. Minutes of the Regular Council meeting of November 14, 2019

b. Minutes of the Special Council Budget workshop of December 2, 2019

c. Approval of Municipal Meeting Schedule 2020

d. Approve Resolution 1365 - Liquor Licenses for North Oaks Golf Club; Panino's; North Oaks Hospitality/Tria Restaurant & Bar; Winestreet Spirits; Suishin Restaurant, Inc.; Taste of Scandinavia

e. Licenses for Approval: Air Mechanical, Alex's Lawn and Turf, LLC; Birch Tree Care; Budget Tree Service; Cameron Tree Services, Inc.; Houle Contracting; KB Service Co.; Langer Tree LLC; Precision Landscape and Tree, Inc.; Rhinex Contractor Inc.; SavATree, LLC; Twin City Tree Authority; Woodland Restorations, LLC

f. Approval of Claims: Check#: 013359-013393

Councilmember Ross motioned to approve the Consent Agenda, which was seconded by Councilmember Kingston. The motion was unanimously approved.

7. Petitions, Requests & Communications

a. Deputy Mike Burrell Report

Deputy Burrell was not present and therefore no report was given.

8. Unfinished Business

a. East Oaks PDA Review

This item was on the agenda for informational purposes only: the discussion is tabled until January 2020.

9. New Business

a. 2020 Fee Schedule for Approval

The 2020 Fee Schedule will be in final form as an ordinance for Council approval at the January 9, 2020 City Council meeting.

b. Discussion of Putting New Water Meters in Charley Lake Preserve and Red Pine Farms  
The 2-inch meters at Charley Lake Preserve are too large to properly channel the water for residences. The individual meters are under-reporting the true water usage. Administrator Kress will be meeting with the City of Shoreview next week and will then report back to Council about possible next steps for replacing the meters.

c. Consider ISTS Variance – 16 East Pleasant Lake Road: Resolution 1368

City staff recommends approval of this ISTS Variance.

Councilmember Ross motioned to approve Resolution 1368, which was seconded by Councilmember Long. The motion was unanimously approved.

d. Consider ISTS Variance – 15 Ridge Road: Resolution 1367

City staff recommends approval of this ISTS Variance with conditions of an easement signed by the North Oaks Golf Club allowing the land to be set aside in perpetuity for the secondary septic site.

Councilmember Ries is concerned the homeowners did not do their due diligence by getting all the tests required, some of which could have allowed for the secondary ISTS site to be placed within their own property. She does not want a precedent set that would encourage homeowners to encroach on neighboring properties without exhausting all possibilities.

Jon Reedy, the homeowner, reported that three septic designers were consulted; sand could be brought in for a non-conventional system at the secondary site.

Administrator Kress suggested a fourth condition be added to Resolution 1367 to ensure all possibilities have been exhausted in terms of keeping both proposed site on his own property.

Councilmember Ries motioned to approve Resolution 1367 with the amendment of the additional condition, which was seconded by Councilmember Ross. The motion was unanimously approved.

e. Consider Conditional Use Permit – 26 Evergreen Road: Resolution 1366

City staff recommends the approval of this CUP.

Councilmember Ries recommends that the City's CUP process is reviewed and tightened so that exceptions to the City code are made more of the exception than the rule.

Councilmember Ross reported that Planning Commission was stringent on these rules in the past.

Councilmember Kingston motioned to approve Resolution 1366, which was seconded by Councilmember Ries. The motion was unanimously approved.

f. Recommended Complaint Form and Policy updates

Administrator Kress explained the form he'd like City staff to use going forward if residents file complaints with other residents or with the City. The form will be filled in writing by residents and will become an internal record at the City. This policy and form will improve tracking, consistency and enforcement for complaints the City receives.

Councilmember Long motioned to approve the Complaint Form and Policy, which was seconded by Councilmember Ross. The motion was unanimously approved.

## 10. Council Member Reports

### Councilmember Long

- No report

### Councilmember Kingston

- Brooke Moore and he are going to get the Tick Task Force results on a Polco survey.

### Councilmember Ries

- Attended the Cable meeting
- Attended the VLAWMO meeting; Stephanie MacNamara is retiring.
- A reminder that the Polco surveys are due at the end of the month.
- Septic Committee meeting will be held Tuesday, December 17.

### Councilmember Ross

- Attended the SCORE Grant meeting with Deputy Clerk Marty to learn about how other cities are handling recycling.
- Met with Nicole Frethem the new District 1 County Commissioner.

### Mayor Nelson

- Invited Nicole Frethem to speak at a future City Council meeting.
- Welcome to Kevin Kress, our new City Administrator.
- In the process of interviewing candidates for the Planning Commission; four applicants have currently been interviewed. The quality of candidates is impressive.

## 11. City Administrator Reports

- Administrator Kress reviewed a form entitled "Request for Council Action" that he would like to use as a City Memo for upcoming Council meetings. This would increase transparency of Staff time spent on numerous issues.

- City staff is interested in implementing some new policies and documentation in order to improve documentation and accountability for Staff and consultants.
- He would like to see monitors added to the conference room upstairs; the cost would be under \$2K, and NOHOA has already agreed to split the cost with the City.
- City Hall will be closed for the entire day on the December 31, unless City Council objects. City Council agreed to close City Hall on December 31.
- A step scale platform for Staff salaries was reviewed with Deputy Clerk Marty. A compensation study by a third party would cost approximately \$5–10K; it is then reviewed yearly for compliance. The City's auditor can provide a report regarding a step program. The upcoming COLA adjustment will put Administrator Kress's salary above the threshold for his salary; he asked Council for guidance on how to approach this at the January 9, 2020 Council meeting.
- Water and sewer rates should be considered so the City can at least break even. A proposal will be ready in January or February.
- Minutes from the Planning Commission and Natural Resources Commission meetings will no longer be on City Council agendas for approval since Council has no authority to approve or amend other Commissions' minutes.
- An ordinance needs to be created yearly for the City's Fee Schedule in order to be in compliance with Minnesota State statutes.
- Administrator Kress made a request to the Metropolitan Council to change the classification of North Oaks to "Suburban," which designates 5 units per acre, to "Emerging Suburban Edge," which designates 3 units per acre in the Comprehensive Plan. Platt monitoring would be a requirement of this change in designation, which is similar to the information the City currently provides to Ramsey County Assessor when new buildings are built. A further ramification of this change of designation is that no zoning will need to change in order for the Comp Plan to be accepted by Met Council as it was submitted. Planning Commission will review this planned change and then report to Council.

Councilmember Ross motioned to approve a change of designation of classification in the Comp Plan, as suggested by Administrator Kress, which was seconded by Councilmember Kingston. The motion was unanimously approved.

- Administrator Kress suggests updating the City's CUP and Variance applications, which City staff is working on internally.
- North Oaks Company is going to submit a concept plan for the East Oaks Development in January. There will be a one-month review and then a report will be prepared for Planning Commission and City Council.

12. Miscellaneous

Next Special City Council Meeting is Thursday, December 19, 2019 @ 7:00 p.m. for Truth in Taxation

Next Natural Resource Commission Meeting is Thursday, December 19, 2019 @ 7:00 p.m.

Next Planning Commission Meeting is Thursday, January 30, 2020 @ 7:00 p.m.

Next Regularly Scheduled Council Meeting is Thursday, January 9, 2020 @ 7:00 p.m.

**Adjournment**

A motion was made by Councilmember Ries to adjourn the meeting at 7:59 pm. The motion was seconded by Councilmember Ross and passed unanimously.

Attest:

Respectfully Submitted

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Mayor Gregg Nelson

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Gretchen Needham  
Recording Secretary

DRAFT

**CALL TO ORDER**

Mayor Nelson called the meeting of December 19, 2019, to order at 7:00 p.m. at the Community Meeting Room, 100 Village Center Drive, Suite 150, City of North Oaks, Minnesota.

**PLEDGE OF ALLEGIANCE**

Everyone joined in the pledge of allegiance.

**ROLL CALL**

Present: Mayor Nelson. Members Ries, Kingston, Long, and Ross.

Absent: - None

Staff Present: Administrator Kress, and recording secretary Breen.

Public Present: \*Only if they sign in.

Others Present: Videographer – Maureen Anderson.

A quorum was declared present.

**PLEDGE OF ALLEGIANCE**

Everyone joined in the pledge of allegiance.

**APPROVAL OF AGENDA**

**MOTION by Ross, seconded by Ries, to approve the agenda as submitted.**

**Motion carried unanimously.**

**TRUTH-IN-TAXATION PUBLIC HEARING**

Mayor Nelson opened the public hearing at 7:02 p.m. There was no one present in the audience.

Three requests were made for anyone to come speak on the topic.

**MOTION to close the hearing was made by Councilmember Ross, and seconded by Councilmember Kingston.**

**Motion carried unanimously.**

**MOTION by member Kingston, seconded by Long, to approve Resolution 1365 setting the 2020 Tax Levy.**

**Motion carried unanimously.**

Administrator Kress mentioned that he has budgeted a 3% Cost of Living Adjustment (COLA) for staff. Having a COLA in place is standard practice in most cities, however North Oaks has none in place.

**MOTION by member Ross, seconded by Ries, to approve a 3% COLA.**

**Motion carried unanimously.**

As part of the motion, member Kingston noted that Administrator Kress pay will be considered for a higher adjustment again in April, since the COLA increase takes place earlier and conflicts with his contract.

Administrator Kress also stated that he would like to move forward with improved technology upgrades to city office systems including Laserfiche integration with Permitworks, and changing over to the Civic plus website platform.

**MOTION by member Ries, seconded by Ross, to initiate the technology upgrades.  
Motion carried unanimously.**

**MOTION by member Long, seconded by Ross, to adjourn the meeting at 7:06 p.m.  
Motion carried unanimously.**

Attest:

Respectfully Submitted

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City Administrator Kevin Kress

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Debbie Breen  
Recording Secretary



## RESOLUTION NUMBER 1375

CITY OF NORTH OAKS  
RAMSEY COUNTY, MN

### RESOLUTION NAMING CHECK SIGNATURES

BE IT RESOLVED by the City Council of the City of North Oaks that US Bank be hereby designated as an official depository for the funds of said City; that checks, drafts, or other withdrawal orders shall be signed by two persons including Mayor Gregg Nelson or Acting Mayor Rick Kingston, and City Administrator, Kevin Kress, or Deputy City Clerk, Stephanie Marty.

BE IT FURTHER RESOLVED that said bank is hereby authorized and directed to honor and pay any checks, drafts, or other withdrawal orders, so signed, including those payable to the individual order of any of the persons signing the same.

BE IT FURTHER RESOLVED that this resolution replaces any previous resolutions and shall remain in full force and effect until express written notice of its revision or modification has been furnished to and received by said bank.

PASSED BY THE COUNCIL of the City of North Oaks this 9<sup>th</sup> day of January, 2020.

APPROVED:

\_\_\_\_\_  
Gregg Nelson, Mayor

ATTEST:

\_\_\_\_\_  
Stephanie J. Marty, Deputy Clerk



**CITY OF NORTH OAKS  
RAMSEY COUNTY, MINNESOTA  
RESOLUTION NO. 1364A**

**AMENDING A RESOLUTION APPROVING FINAL 2019 TAX LEVY, COLLECTIBLE  
IN 2020 AND 2020 FINAL BUDGET**

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**THE CITY COUNCIL OF THE CITY OF NORTH OAKS ORDAINS AS  
FOLLOWS:**

**BE IT RESOLVED** by the City Council of the City of North Oaks, County of Ramsey, Minnesota, that the following sum of money is levied for the current year, collectible in 2020, upon the taxable property in the City of North Oaks, for the following purposes:

Total levy	\$1,860,000
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**BE IT FURTHER RESOLVED**, the North Oaks City Council does hereby adopt the 2020 Annual Budget as hereto attached in Appendix A of this Resolution.

The City Clerk is hereby instructed to transmit a certified copy of this resolution to the County Auditor of Ramsey County, Minnesota.

PASSED BY THE COUNCIL of the City of North Oaks this 19<sup>th</sup> day of December, 2019.

**APPROVED:**

\_\_\_\_\_  
Gregg Nelson, Mayor

**ATTEST:**

I hereby certify that the foregoing Resolution is a true and correct copy of a Resolution presented to and adopted by the City Council of the City of North Oaks on December 19, 2019.

Attested:

By: \_\_\_\_\_

Kevin Kress

Its: City Administrator/ City Clerk

**DATE:** December 16, 2019  
**TO:** Kevin Kress  
**FROM:** Joseph Kelly & Kevin Beck  
**RE:** 1/9/2020 Presentation to City Council

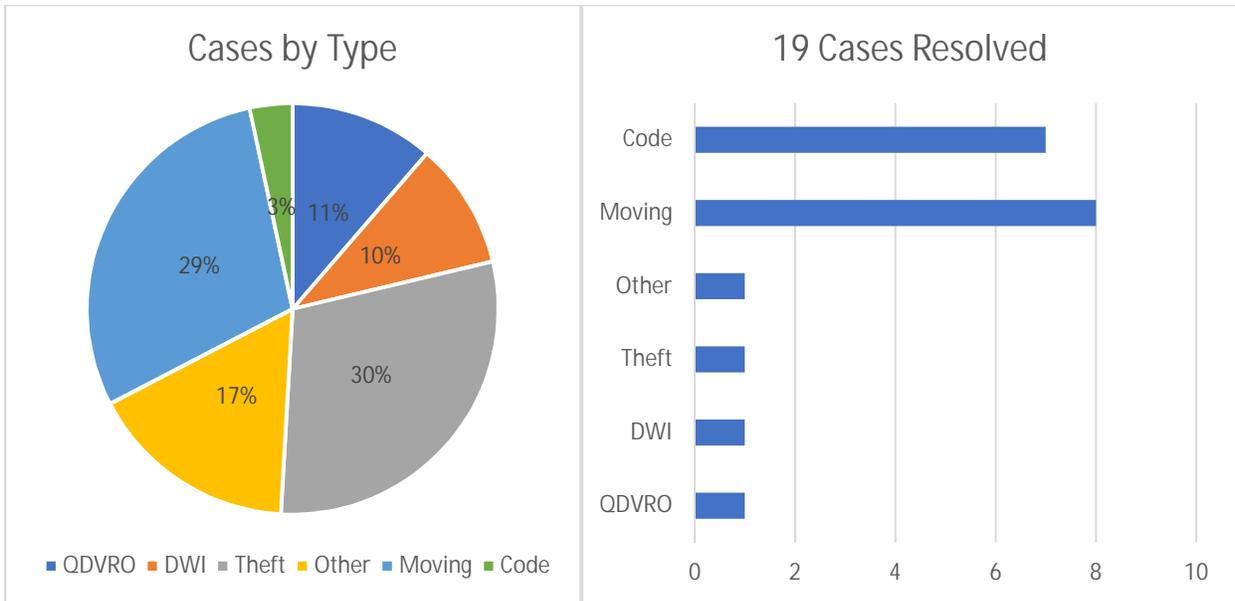
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## **I. JANUARY - NOVEMBER 2019 - GENERAL DATA**

These year-end results include all cases that were resolved between January 1, 2019 and November 30, 2019, regardless of when the case was charged. As way of background, the Minnesota State Court Administration provided our office with data for all cases disposed of originating from the City of North Oaks as the community of offense. In the dates listed above, the Ramsey County Attorney's Office had a total of 7 cases disposed of with 5 cases Criminal Mandatory, 1 Criminal Non-Mandatory, and 1 Juvenile. In comparison, the North Oaks City Attorney's Office had **102** cases disposed of in the same time frame; 19 Criminal Mandatory, 83 Criminal Non-Mandatory.

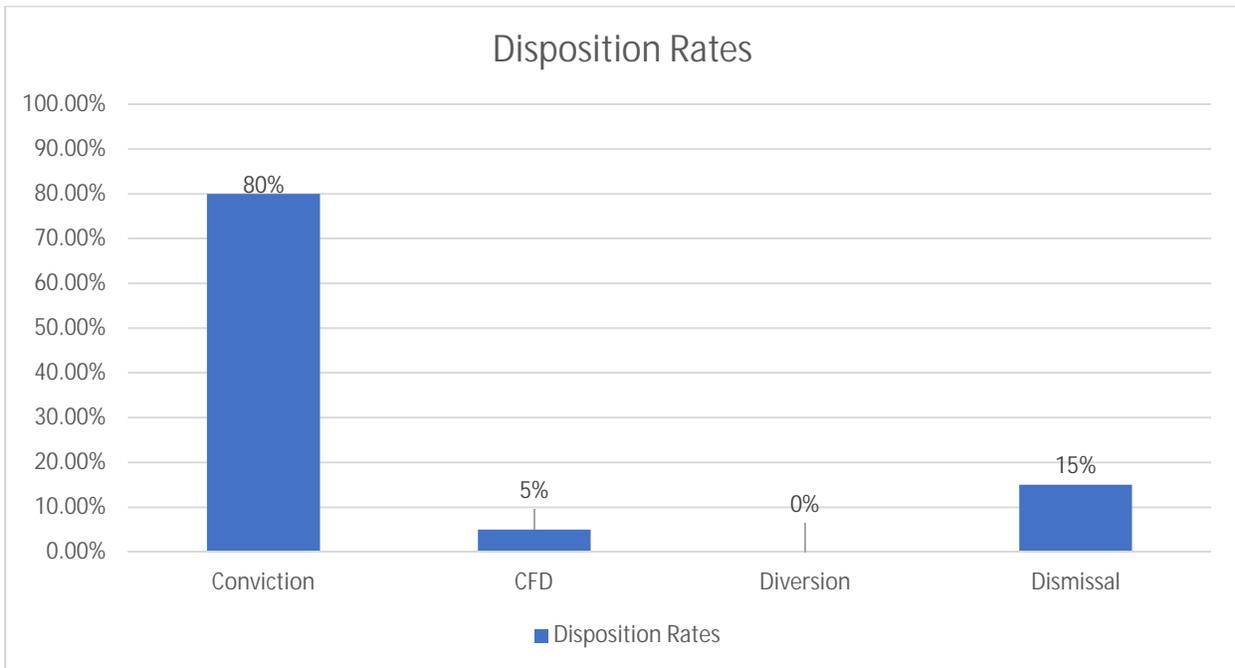
Our office declined charges on 1 case. Overall, less than 1% of cases prosecuted by our office during the time frame in 2019 were declined. The case was declined in the interest of justice/lack of evidence. The graph below illustrates disposition by type of case, which have been categorized as follows:

- **Code** = violations of city code
- **Moving Violations** = traffic offenses, ranging from equipment violations, speeding, seatbelt and handheld device violations, to DAR/DAC/DAS, careless/reckless driving, to DAC-IPS.
- **Theft** – includes shoplifting, theft of services, theft by swindle, etc.
- **DWI** – driving while under the influence of alcohol or controlled substance
- **QDVRO** = cases that include a qualified domestic violence related offense (“QDVRO”) in the charge even if not qualifying as a domestic assault (e.g. assault-5)
- **General** = offenses not otherwise covered (e.g. DOC, OLP, FITP, PCS, Trespass, RSP, TMV, UA Alcohol, Furnishing Alcohol/Tobacco, etc.)

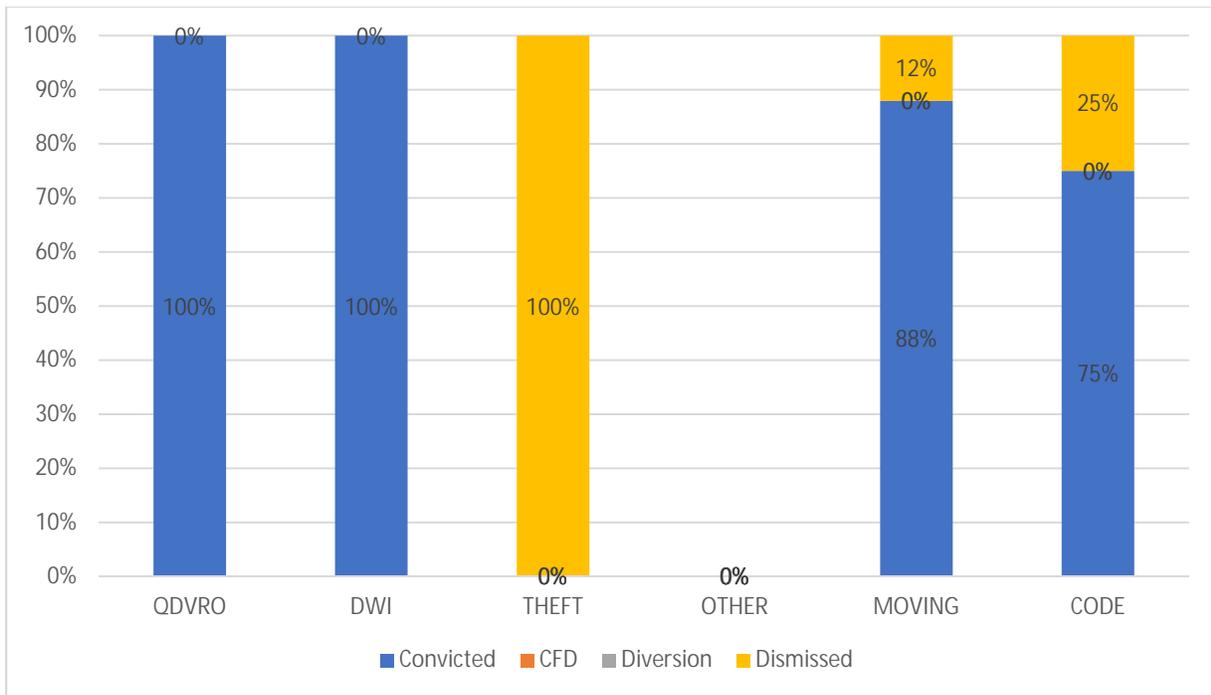


**A. Year End 2019 – Disposition Rates**

The overall conviction rate across all categories of cases was 80%; 5% received continuances for dismissal (“CFD”); 9% were referred to diversion; and cases were dismissed at a rate of 15%. This conviction rate does not include cases resolved through referrals to Diversion or continuance for dismissal (“CFD”). When those additional types of resolutions are included, the overall disposition rate rises to 85%.



Disposition rate by charge type:



	Resolved	Conviction	Dismissal	CFD	Diversion
DWI	1	1	0	0	0
Theft	1	0	1	0	0
QDVRO	1	1	0	0	0
General	0	0	0	0	0
Moving	8	7	1	0	0
Code	8	6	2	0	0

Of the dismissals, two were from one traffic stop for trespassing where it was later discovered that they were, in fact, visiting a resident. The theft case was a counterfeiting currency/theft by swindle where we could not prove that the defendant knew that the bills were counterfeit and the other dismissal was while the individual was in custody, he pled guilty for the same charge in a different city in exchange for dismissal of our case.

**2019 ANNUAL REPORT**

**TO: NORTH OAKS MAYOR AND CITY COUNCIL  
Kevin Kress, City Administrator**

**FROM: KEVIN WHITE, BUILDING OFFICIAL-NORTHSTAR INSPECTIONS INC.**

**DATE: JANUARY 9, 2020**

**SUBJECT: CONSTRUCTION SUMMARY FOR 2019**

**TOTAL VALUATION OF CONSTRUCTION: \$29,607,231**

**TOTAL NUMBER OF BUILDING, MECH, PLBG PERMITS: 638**

**SINGLE FAMILY HOME CONSTRUCTION- 30 PERMITS**

**BREAKDOWN:**

RAPP FARMS	15
RED FOREST	2
RED PINE FARMS	2
VILLAS	6
Traditional Lots	5

**COMMERCIAL ACTIVITY: No Large projects**

**NUMBER OF INSPECTIONS: 822**

**NUMBER OF RENTAL INSPECTIONS: 1**

**Respectfully Submitted**

**Kevin White,  
Building Official**

Table 1

<b>NORTH OAKS ANNUAL CONSTRUCTION SUMMARY REPORT</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
<b>TOTAL VALUATION</b>	\$20,192,500	\$26,628,921	\$24,488,163	\$29,607,231
<b>TOTAL NUMBER OF BLDG/MECH/PL/ ELECT PERMITS</b>	601	809	904	638*
<b>SINGLE FAMILY HOME CONSTRUCTION BREAKDOWN:</b>	27	31	30	30
<b>Rapp Farms</b>	13	19	21	15
<b>Charlie Lake Estates</b>	7	1		
<b>Red Pine Farms</b>	3	1	3	2
<b>Villas</b>	2	6	4	6
<b>Red Forest</b>			2	2
<b>Traditional Lots</b>	2	4	0	5
<b>COMMERCIAL ACTIVITY</b>	Panino's Remodel	Country Club	No large projects	
<b>NUMBER OF INSPECTIONS</b>	886	825	908	822
<b>NUMBER OF RENTAL INSPECTIONS</b>	8	5	1	1



CITY OF  
**NorthOaks**  
*Building on a tradition of innovation*

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## 2019 Forestry Report

*Prepared by*



Rehder Forestry Consulting

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## Open Letter to the City of North Oaks

Dear Mayor, Council members, Residents, & Staff

It was another successful year for the North Oaks Forestry Program. Hundreds of diseased trees were marked for removal to the benefit of the entire community. More than one hundred residents had a house call from the City Forestry staff. While numerous trees were lost to shade tree diseases such as Oak Wilt and Dutch elm Disease, countless more were preserved by the efforts of the City and its residents who show an appreciation for the effectiveness of the program as evidenced by the high compliance rate. However many challenges lie ahead with regards to other fatal shade tree insect pests such as the Emerald ash borer (EAB) , Gypsy Moth, the Asian long-horned beetle (ALB), and other as of yet unknown tree killers. Leaf diseases such as Diplodia on pine and Bur oak blight (BOB) on oak are also seriously affecting trees in North Oaks. Include in that impacts from weather related events and we can see that times can be challenging for our rooted friends as well.

Residents are required to apply for and receive a shoreland forestry permit if they intend to do work along the shoreline of most of the lakes within North Oaks. Oftentimes residents are not aware of the requirements of working along the shoreline and the Forestry staff will help them to not only make an aesthetically pleasing and ecologically functioning shoreline but to make sure they are following State, City, and Association requirements.

Still other residents like the fact that they can call the City Forester and request a general health visit or diagnosis of their trees. They appreciate working with our knowledgeable staff and receiving the unbiased advice that is provided. It is in fact one of the best parts of our jobs.

Hazard trees and trees that lean excessively into the street are also an ongoing concern by maintenance staff and residents alike. Operation Clearview, based on our field observations, was designed to address these issues. City staff sent out numerous letters requiring residents to remove or cut back vegetation that was within five (5ft) of the street and within thirteen (13) feet of height and even maintenance staff have noticed that they remove fewer dead or leaning trees from the streets keeping walkers, bikers, and joggers safer from vehicle traffic.

All of our tree inspectors are certified through the State by the Certified Tree Inspector (CTI) Program. We were fortunate enough to have Mary Johnson join our staff in June as she is well versed in tree diseases and all things North Oaks related. Continuing education is an important part of being any Tree Inspector as well as attendance at the annual Minnesota Shade Tree Short Course- a tree aficionados pilgrimage- put on by the University of Minnesota.

One hundred seventy-two (172) trees were marked for Oak wilt within the city of North Oaks in 2019. Removal of these trees is critical as it is the first part of the treatment protocol. If

diseased Oak trees are left standing they can contribute to the over land spread of the disease. This has the potential to create new infection centers on neighboring properties to the detriment of all homeowners within the community. Residents are also informed, educated, and encouraged to seek further treatment options to include root pruning and or fungicide treatment injections. These treatments have the potential to save a large number of trees not only as it relates to oak wilt but Dutch elm disease and Emerald Ash Borer as well. Twenty (20) additional trees were marked for Dutch Elm disease in 2019. Both the number of Oak wilt and DED are within the usual thresholds for this disease annually. No new Emerald Ash Borer trees beyond the original find near the pump house were observed but winter inspections starting in January are the best time to diagnose this fatal tree disease.

Other invasive plants also threaten the health of North Oaks' unique forest resource. Recently the City was awarded a Minnesota Department of Agriculture grant to help initiate a campaign against the Oriental Bittersweet. Oriental bittersweet is an aggressive vine that smothers and strangles forest stands and has been observed in North Oaks and is on the States Prohibited Noxious Weed (Eradicate List). We developed a protocol to reach out to residents who we suspected had Oriental Bittersweet on their property. We then defined the extent and helped facilitate treatments of the sites through a private vendor. We are excited to continue working with the Natural Resource Commission and this program in 2020 as well as other invasive species management plans.

It is critical that the City continues to work with multiple partners to the benefit of its natural resource. To date the City has worked with and has fostered positive relationships with the Minnesota Department of Agriculture and the Department of Natural Resources. Collaborative projects have also been undertaken with the University of Minnesota, St. Paul Regional Water Utilities, Vadnais Lakes Area Watershed Management Organization (VLAMO), and Ramsey County. Locally, the Natural Resource Commission (NRC) and the City has excellent stewardship partners in the North Oaks Homeowners Association (NOHOA), North Oaks Company, and the Golf Course, all of which understand the benefits of a healthy environ. Partnering together is the most effective tool in preserving and protecting our natural environment.

We appreciate the opportunity to work with the you and feel your passion for the beauty of North Oaks forested resource. We are living in uncertain times, times when we value, even more, the tranquility and enduring beauty of our community and home sites.

Respectfully,

Mark Rehder  
Contracted City Forester

## Forward

Having a forestry program is something that every community desires especially with the unique makeup of North Oaks and its forested environment. Rehder Forestry Consulting is proud to offer a comprehensive program and variety of services in order to meet North Oaks's urban forestry needs. This report describes those services, details findings and results, and provides recommendations to aid the City in maintaining and improving the quality of its urban forest.

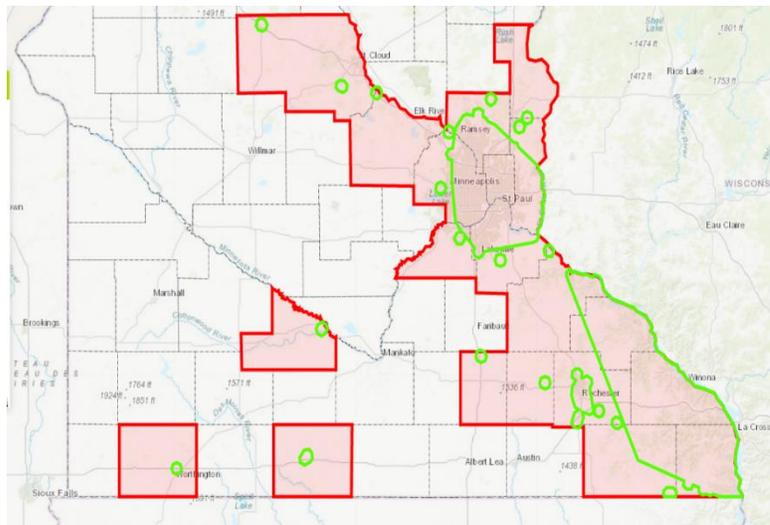
## Emerald Ash Borer

In March of 2019, the Emerald Ash Borer beetle (EAB) was confirmed by a MDA scientist to be in North Oaks. The site was near the pumphouse on the south side of Pleasant Lake. EAB is a tiny beetle that is devastating forests and neighborhoods in Canada and the United States. To date, EAB has killed tens of millions of ash trees and infested over 50,000 square miles in Michigan, Ohio, Illinois, Indiana, Iowa, Missouri, Tennessee, Virginia, Pennsylvania, New York, Kentucky, Wisconsin, Minnesota, and Canada.

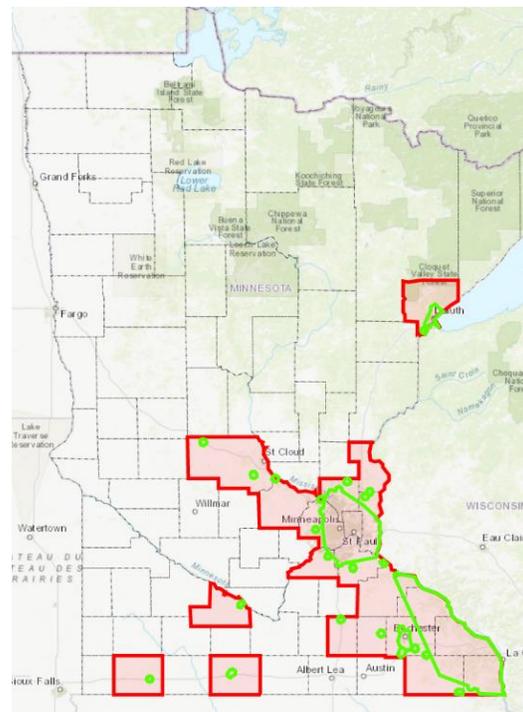


Ash was used extensively as street trees to replace elms lost to Dutch elm disease in the 1970s and 1980s. The state has the third largest volume of ash timber in the nation.

In 2009, Emerald Ash borer was discovered in St Paul, a mere 8 miles away from the borders of North Oaks. Since then the city has been under an ash quarantine, meaning that no ash trees, limbs, or debris can be removed from the county. In 2011 EAB was discovered in Shoreview just over two miles from the North Oaks border. The key to combating the insect is early detection.



One of the major concerns about the rapid rate of mortality from EAB is public safety. The city conducted an inventory around the Pleasant Lake and along the major streets and found the potential for a high percentage of hazardous tree situations as a result of tree mortality. Ash trees, which are common in lowland areas (near water bodies and trails), tend to shed bark and large limbs shortly after they die due to their brittleness. It is anticipated that many of the trees will die quickly within the first 10 years, meaning the removal of thousands of trees in a short period of time and burdening cities budget. The NOHOA has also taken action to stay ahead of this mortality curve and continues to remove trees proactively and as budgets permit. They are also treating a select number of high value trees. It is estimated that as many as 75 semi-loads of ash debris could be created from the trees around Pleasant Lake alone. While the environmental impacts may be great, the financial burden may be even greater. The city will need to be vigilant that these problems are addressed as they arise. The map shows the current location of EAB in Minnesota. The insect seems to get further and further into greater Minnesota every year.



One of the keys to slowing the spread of the insect will be early detection. By locating the insect in a particular area, we can quickly take measures to remove the diseased trees and hopefully many of the immature larva still in the trees. In this way we can limit the spread to new areas and within the existing area. The goal is not necessarily to remove the insect completely but to slow the spread thereby giving us more time to take the appropriate steps. While North Oaks does not have the typical “boulevard” trees its ash resource is none the less extensive. It has been suggested that North Oaks has an ash population of around 7%, which equates to roughly 35,000-50,000 trees, a staggering number.

While the pest does continue to spread in Minnesota it may not be moving as quickly as originally forecasted. There are many reasons for this. First would be the colder winter temperatures. When winter lows get below 30° Fahrenheit large

numbers of larvae will perish. It is estimated that up to 75% of the population may have perished in the Twin Cities area as a result of frigid February temperatures in 2019.

Secondly, preemptive and diseased ash tree reduction programs have been implemented by most communities over the last 10 years reducing the population by a significant amount and, at least temporarily, preserving many trees in the process. Trees have also been preserved with treatments that are stated to be 99% effective. Some communities have decided to treat all their boulevard ash trees, while other communities have decided to treat none of their ash trees. Most other communities have used a blend of the two treatment strategy options. The treatments need to be repeated every 2-3 years.

Lastly is the introduction of three different types of parasitoid insects. These insects lay eggs on the EAB larvae under the bark. When the eggs hatch they feed on the EAB larvae. This program, started in 2019, is being used by the Minneapolis Park & Recreation Board as a strategy within its woodlands. This may be the best option for preserving trees in woodland settings such as we have in North Oaks. The parasitoid insects have undergone extensive testing from the USDA but their effectiveness remains to be seen since they have only recently been released. Success will be determined by how many parasitoid insects can be observed in the following years (survivability) and how effective they are at reducing the EAB population.

It is obvious that great cooperation will be needed amongst the homeowner's association (NOHOA), the residents, North Oaks Co., the Golf Course, and the City. To that end, the Natural Resource Commission established an EAB Preparedness Plan, which has been adopted as part of the Cities ordinances. The Plan calls upon the City to treat EAB infested trees as it does Dutch elm disease and Oak wilt. All diseased ash trees will need to be removed and their removal will be enforced. The Plan also set parameters for treatment protocols that follow best management practices as well as numerous other practical steps that can be taken to limit the impact from the devastation caused by the EAB.

A key component of any successful program will be education. Since residents will be the ones most affected by EAB it will be critical to keep them informed and aware hopefully easing the burden of the introduction of EAB into our community. To that end the Forestry Department is available to meet with residents and assess their ash population. The landowner will then know how many, where, and how valuable the ash trees are on their property. They will then be able to make informed decisions with that information.

### Oak Wilt

Oak wilt is found in the upper Midwest and as far south as Texas. The fungus probably established itself in this area long ago but was not identified until 1948. The American Phytopathological Society has determined that oak wilt is an invasive species and probably originated somewhere in Central America. Oak mortality had been observed in Minnesota for

many years, but until that time it was not known what caused the trees to die. It is interesting to note that in the 1970's, when Dutch elm disease was decimating so much of the State's elm population, more oaks were dying from oak wilt. Urbanization of metro area suburbs has increased the number of people affected by oak wilt by wounding valuable oaks during road building, home construction and other development. Damage that occurs during these activities has accelerated the spread of this disease. There is now a high incidence of the disease throughout the seven-county metropolitan area. Today, new infections are often correlated to large storm events and new construction in wooded areas. The symptoms of decline and death due to construction damage can mimic oak wilt, complicating diagnosis, and inflating numbers of marked trees in some cases. Currently, oak wilt is the most serious shade tree disease in Minnesota (photo below). Thousands of trees die every year in areas without control programs, but both prevention and control are possible. New techniques also add to the tools available for saving this valuable community resource.



Cities that have any sizable American elm population also have an unavoidable problem with Dutch elm disease. But a continuing elm sanitation program can reduce the incidence of Dutch elm disease. The best way to control this disease is prompt and proper disposal of the diseased wood. The best and only way to assure this is with an inspection and sanitation program.

We continue to find the citizens of North Oaks greatly interested in their City's urban forest. They continue to be concerned enough to ask questions and happy to learn about their important tree resource. Compliance within the shade tree disease program remains at an all time high.

## Oak Wilt Program Summary

The following is a brief summary of the inspection and control procedures for the City of North Oak's Oak Wilt Program. The City's Oak Wilt program provides a comprehensive approach to protecting and maintaining its valuable forest resource. The program provides homeowners with detection and treatment of the disease, along with follow-up assistance for proper reforestation.

Oak Wilt is detected through a series of ground inspections, aerial photography, and responses to homeowner calls. Aerial photography is a very efficient method for locating and recording new oak wilt infections, as the infected trees begin turning color in the upper crown first. The city is flown over in a systematic pattern and oblique (out the side window) photos are taken of the wilting trees, along with wider angled photos of landmarks to help locate the trees on the ground. Aerial photography is particularly helpful in North Oaks due to the many hills, ravines and heavily wooded lots not found in other communities. The window for effective flights runs from the middle of July to the first part of August. We would like to investigate the possibility of using drones in the future, especially in heavily wooded and low-housing density areas such as the Conservation Area.

Our inspectors locate and map the infected trees and evaluate the site for potential spread. In neighborhoods with either active infection centers or recent (past two to four years) infections, our inspectors will perform a walking survey of the area to assure all infections are located. In areas of town without a recent history of disease or many oaks, we perform windshield surveys where we can cover a wide area in a relatively short time.

Our tree inspectors are all tested and certified through the Minnesota Dept. of Natural Resources Tree Inspector Certification Program. We have our inspectors wear company work shirts and vests, along with signs on their vehicles for a professional look. Prior to entering a property, our inspectors will first knock on the homeowner's door to introduce themselves, explain the purpose of their visit, and answer any questions the people may have. Over the years we have found the citizens of North Oaks to be very receptive and supportive of the Oak Wilt program and the efforts to maintain a healthy natural environment in the City's parks and neighborhoods.

We also respond to private homeowner calls over concerns about their oaks. If we can't answer their questions over the phone, or if we have not previously identified Oak Wilt on their property, we will make a personal call to the property.

The treatment facet of the program involves controlling the spread of Oak Wilt via the grafts that readily form between the root systems of adjacent oak trees. For years the only effective method of control involved severing the root grafts with a five-foot long blade pulled by a large tractor. While this is a very effective method, recent University of Minnesota studies show 87% effectiveness at stopping the spread of the disease, it is not always feasible, due to

obstacles such as landscaping, underground utilities, fencing, wetlands, or steep topography. Many years ago a chemical fungicide with the active ingredient propiconazole was licensed for use on Oak Wilt in Minnesota.

Research is also ongoing on the potential use of herbicides to kill a number of oaks within root graft distance. The intent is to kill the fungus in the root system so that it can not spread. However, initial reports are not too encouraging, but the research is ongoing. It also sacrifices a large number of oak trees that could be preserved with traditional treatment methods.

Not every Oak wilt infection center requires treatment, only those sites with oaks close enough to form root grafts. Sites where there are enough trees of other species to form a natural barrier, or where other barriers such as roads or houses exist, do not require treatment. North Oaks is blessed with a diverse forest, which help limit the spread and impact of Oak wilt.

Diseased oak trees create spore mates (photo sequence below) which are responsible for the overland spread of the disease. We are limiting the number of new infections that can start by removing diseased trees. Diseased trees often times carry the fungal pads that contribute to the overland spread of the disease.



After the dead trees have been removed and properly disposed of, we encourage and assist people to reforest the area with suitable species. Without taking positive action to replace the missing trees, the area tends to be overtaken by ‘weed’ species like buckthorn, honeysuckle or Garlic mustard. Reforesting an area can be as simple as protecting and encouraging existing seedlings, to moving small seedlings from other areas of the yard, or to planting nursery stock of all sizes. Regardless of the method, we want to make sure we provide the homeowners with the information needed to choose trees that will be suitable and proper for their yard and meet the homeowner’s desires.

Not every tree will be suitable for every site. Our knowledge of the soils and environmental conditions in North Oaks allows us to recommend to people trees and shrubs that will be healthy and thrive on their lot.

We have also expanded the information provided to the citizens by developing and maintaining a natural resource tab on the City’s web page. There residents can find useful information to help them make informed decisions about what species to plant and where to plant them. We will continue to develop this resource as seems fit.

#### RECAP OF 2019 DISEASED TREES

	Dutch Elm Disease Trees	Oak Wilt Trees
Private	14	121
NOHOA	6	13
NO Company	0	27
Pines/Summit	0	11
TOTAL	20	172

#### Propiconazole Fungicide Injections

We keep abreast of recent developments in disease control techniques. One such option that is showing great promise is the injection of the fungicide propiconazole for control of Oak wilt.

Although there has been good success with vibratory plowing for the severing of root grafts, occasionally there are cases where it is not applicable or feasible. Situations where access for the plow is limited due to terrain or other obstacles sometimes preclude its use. Other times only a single high-value tree may be at risk, in these cases a fungicide injection can be a relatively low-impact, effective option.



The most common utilization of Propiconazole is on Red oaks that share root systems with infected trees but cannot be protected by mechanical root graft barrier. There are many valuable trees that are in inaccessible areas (near homes, terraces, underground utilities or septic systems) that are at high risk, which now can be protected by Propiconazole injections. White and Bur Oaks are less susceptible to the Oak Wilt fungus but can still become infected. If caught early enough, Propiconazole treatments can be used to treat the infected trees, both suppressing the fungus and allowing the trees to recover.

Results from injecting oaks with propiconazole in the metro area over the last 10 years are encouraging. The process consists of minor excavation to expose the tree's root flare below grade, drilling a series of shallow holes in the tree in this area, and placing a system of plastic tees and tubes connected to a container that supplies the chemical. Time for uptake of the chemical varies with the weather conditions but usually ranges from 1 to 3 hours.

Research has shown that the chemical does not move much beyond the root area where the injections take place. Injections do not keep the fungus out of the tree but keep it from expressing oak wilt symptoms. Only high value oaks should be considered for treatment or bur and/or white oaks which are showing signs.

We recommend the use of propiconazole injections for the control of Oak wilt with the following conditions:

- Use is limited to situations such as mentioned above where the presence of Oak wilt has been confirmed, but mechanical severing of root systems with the vibratory plow is not practical.
- *Preventative use* in Red oaks is used only if a healthy tree at risk shows no symptoms.
- *Therapeutic use* (for curing a tree that is infected but not too advanced) is used on Bur and White oaks only. In Red oaks, the fungus is already systemic by the time any symptoms appear, and the chemical use is ineffective.
- Not all trees are good candidates for injection. The presence of cracks, rot, decay, other structural defects that cause a hazard, or too advanced an infection, are things that can preclude injection.

We will continue to assess the use of fungicides as part of North Oaks' shade tree disease program.

## Severing Grafted Roots

The oak wilt fungus can remain active in roots of diseased oaks for 2 to 3 years after the tree has died or been cut at ground level. The fungus can travel through the root system into healthy oaks quickly or remain in the root system before infecting the next tree. The purpose of root graft disruption is to separate the common root systems between oaks, so that the disease becomes isolated and cannot continue to spread.



The above picture shows a root graft. Roots can graft when as small as pencil- thickness, when their diameter becomes large enough to cause enough soil pressure to stimulate a graft to form. Soil type will also affect root structure, and therefore grafting distance between trees.



The vibratory plow is a large and heavy machine in order to be able to cut to an effective depth. The only part that enters the ground is the blade at the right of the photo. It is a powerful machine that is pulled by large tracks and usually does minimal ground disturbance.

The best mechanical method of separating roots involves the use of a large articulated tractor with a specially designed 5' plow blade. The vibrating blade is pulled through the ground, physically cutting and separating the roots. Numerous contractors are available to provide this service to residents. Studies by the University of Minnesota analyzed the success of root graft disruption with a vibratory plow. The data show an 87% success rate on plow lines placed as primary barriers. This low rate of failure can nevertheless involve very significant and valuable trees. These losses can be devastating to a homeowner expecting control measures to save all of their trees. By reviewing the barriers placed and participating in current research, we are learning more about the biology of the fungus and its spread vectors. This information will help us to increase the success rate of our control programs even more.

## Bur Oak Blight

Impacts from Bur oak blight (BOB) continue to be felt. The symptoms can be very dramatic as large bur oak trees can be severely effected. The cause is a leaf fungus which will attack the leaves of the tree causing early browning. The symptoms can be very similar to oak wilt and it is easy to mis-diagnose. I have seen many cases where 4 or 5 large bur oak trees have become severely infected leaving the homeowner in a state of panic. Fortunately, it is believed that a dry spring may break the cycle of this disease. The leaf fungus stays on the leaf petiole of the tree over the winter and when the spring rains



come it moves to the newly emerged leaves and infects them. This cycle can continue for many years and can cause significant stress to the tree. **It's important to remember that bur oaks can lose up to 50 percent of their canopies every year but still remain relatively healthy.** However, when a bur oak loses more than half its leaves for several consecutive years, it may become stressed and susceptible to other problems, such as two-lined chestnut borer and Armillaria root disease. The same bur oak in Zimmerman, Minnesota, photographed in September 2017, 2016, and 2015, from top to bottom.

Still, even when a bur oak has had severe BOB, it may be relatively healthy. The best time to evaluate bur oak health is in June: if the tree does not have branch dieback or epicormic shoots (small, young branches growing out of the trunk and big limbs), it is probably not stressed. We need to educate residents to give these trees the benefit of the doubt and to not remove healthy trees. Articles in the North Oks News will be forthcoming on this tree disease.

## Yard Trees

Yard trees are high value and additional measures are often possible with them. Two-lined chestnut borers (TLCB) populations can be reduced by cutting and removing infested trees before the start of the next growing season. Infested oaks are those trees which died or showed heavy dieback this year.

**Remove oaks that are completely dead.** TLCB populations can be reduced by cutting and removing infested trees before the start of the next growing season. Since TLCB larvae can survive in cut and split wood to emerge next spring, the complete removal of infested logs and branches should be done by May 1<sup>st</sup> of next year.

**The preferred methods of wood and slash disposal** are removal to an approved landfill or sale of tree for lumber. If any woody materials larger than 1 inch in diameter remain, pile and burn them before May 1<sup>st</sup> in an approved fire pit. If you want to keep the wood for firewood, cover the wood pile with a heavy plastic tarp and bury the edges of the tarp in the soil for an airtight covering. Keep the firewood covered until at least July 30<sup>th</sup> next year. Then the wood can be moved or burned as you like.

**If droughty, water healthy and declining oaks** on a regular basis during the growing season. Trees with less than 50% dieback may be saved by heavy watering during droughty weather. If rainfall is inadequate, make sure trees get at least 2 inches of water per week in May and June and 1 inch per week in July and August. Water so that the entire root system receives this amount of moisture all at once. Remember the absorbing roots are at the dripline and beyond.

**Strictly avoid using fertilizers and/or herbicides** on lawns and gardens within 50 feet of an oak tree. Fertilizers will only hurt an ailing tree and herbicides kill tree roots too, leading to more root system loss.

**Avoid practices which destroy or smother roots.** Root loss will drastically affect tree vigor. Practices which damage roots include trenching or burying utility lines which sever the roots; compacting the soil around the roots by driving and parking of vehicles on roots systems; smothering roots by paving or temporarily storing excavated soil over the root system; or, by changing soil grade, either adding or removing soil.

**Control other insects that cause defoliation** before 60% of the foliage is lost. Once defoliation reaches this level, the trees may re-foliate and this decreases tree vigor. Develop and implement spray plans if heavy defoliation is predicted to occur for the second or third consecutive year.

**Avoid bringing fresh firewood into your yard.** Bringing more infested wood into an area can compound the problem of Oak wilt and EAB.

**Chemical insecticides are not useful against TLCB** because of difficulties with timing and obtaining thorough coverage on large trees. However, certified arborists or commercial pesticide applicators may be able to treat high value shade trees.

## Gypsy Moth

Gypsy moth is an exotic species of leaf-eating caterpillar that was introduced in the 1800's. The spread was initially very slow, but the post WWII economy brought an increased movement of people, recreational vehicles and nursery stock. In the last four years, moth populations have increased across Wisconsin with major infestations being discovered in Eau Claire and Madison. More recently the moth has established itself on the North Shore of Minnesota in Cook County. The moth eats leaves from over 200 species of trees and shrubs. When the caterpillars feed in the spring, they rob the tree of its ability to undertake photosynthesis, effectively stealing the tree's energy reserves and slowing its growth. In Minnesota, they will find lots of oak and aspen, the moth's two favorite hosts. In the past few years, Minnesota has come under increasing pressure of introduction as our neighboring states become infested.

### Gypsy Moth



**Larva (May- June)** Hairy caterpillar with 5 pair of blue dots and 6 pairs of red dots



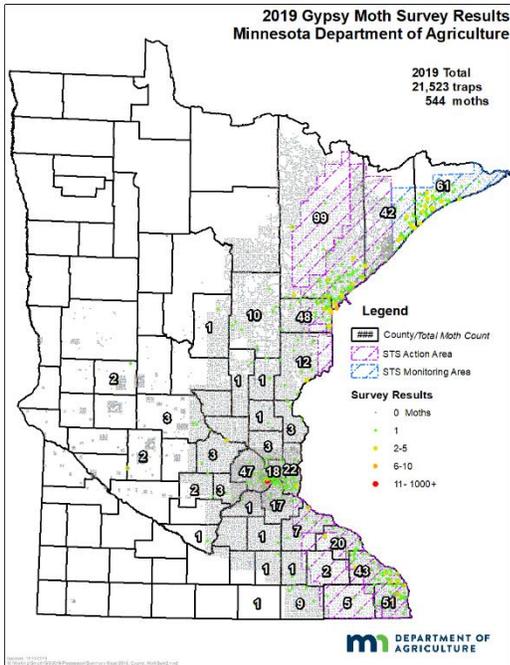
**Pupa (July-August)** pupal skin and pupa (females are larger than males)



**Adults and egg mass (July- August)** male moth is brown; female is white with brown markings.



**Egg mass (August- May)** small larvae emerge the following May



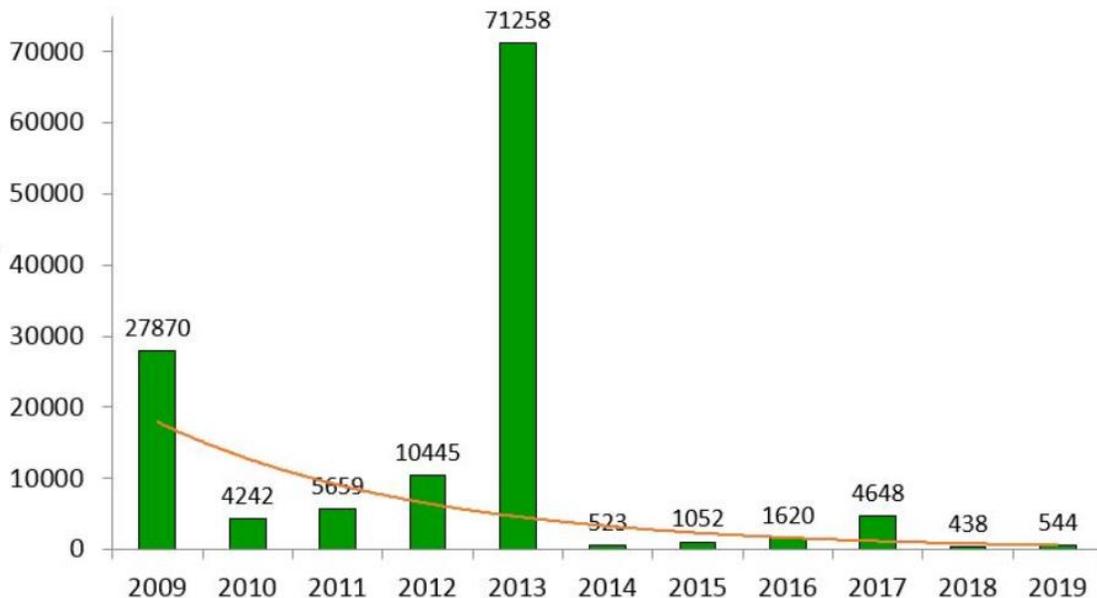
## Bitter winter has impact on gypsy moth in Minnesota

*Experts caution that more cold weather won't eliminate the population*

Last winter's harsh temperatures have resulted in some positive benefits – a decline in the state's gypsy moth population. The Minnesota Department of Agriculture (MDA) captured approximately 500 moths this year in traps around the state.

“While the decrease in moths is good news, we know they will bounce back quickly.” said Dr. Brian Aukema of the forest insect laboratory at the University of Minnesota. “A single surviving egg mass will produce more than 500 hungry caterpillars.”

## Total # of Male Gypsy Moths Trapped in Minnesota (by all Survey Cooperators): 2009-2019



The placement of survey traps throughout the state also affected 2019 trapping numbers. The gypsy moth survey program concentrates on the eastern half of the state due to the natural westward movement of gypsy moth through Wisconsin as the population front expands. Selected high-risk businesses also receive survey traps throughout the annually designated trapping survey project area. Over the years, the trapping survey has shown us where gypsy moth populations are starting up, building, and moving.

Each year the MDA sets around 20,000 gypsy moth traps throughout Minnesota to determine the location and size of gypsy moth populations. The MDA's survey program is closely tied to the insect's biology. The female does not fly so she uses a pheromone, or sex attractant, to lure the male moth to her for mating. Although humans can't detect the scent of the pheromone, it is a powerful attractant to the male gypsy moth.

Gypsy moth caterpillars, which are not native to North America, eat the leaves of many trees and shrubs. Severe, repeated infestations can kill trees, especially when the trees are already stressed by drought or other factors.

Gypsy moth is an introduced non host-specific leaf-eating insect. It has slowly spread across the United States from New England to Minnesota over the last century. The pest is known as the gypsy moth because the females cannot fly and have the habit of depositing their eggs on objects near the trees on which they were feeding as caterpillars. These objects might be picnic tables, car fender wells, grills or any outdoor household article or lawn ornament. When these objects are moved from an infested area, the gypsy moth eggs "hitchhike" along and are transported into and threaten other areas.

States located along the leading edge of the gypsy moth population have implemented a regional strategy to minimize the rate at which gypsy moth spreads into uninfested areas. As a direct result of their actions, the national spread rate has been dramatically reduced by more than 70% from the historical level of 13 miles per year to 3 miles per year. In just eight years, this program has prevented the impacts that would have occurred on more than 75 million newly infested acres. The benefits from the national strategy are experienced by the nation as a whole as well as individuals.

While the numbers within Ramsey County have remained consistently low the last 8 years, 18 moths caught in 2019, communities must remain aware of the potential for destruction of large tracts of forested lands if they become established. Gypsy moth prefers oak and aspen -both species are well represented in North Oaks - but it does not discriminate against other tree species.

Although it's just a matter of time before gypsy moth is well established in Minnesota, the Minnesota Department of Agriculture estimates that by eliminating infestation pockets such as the ones along the Northshore, the establishment of gypsy moth into Minnesota can be delayed by up to 10 years

Minnesota began its participation in a federal program called Slow-The-Spread (STS) in 2000. This program operates along the advancing front of the east to west spread of the insect in an effort to slow the infestation to neighboring States. A list of Gypsy Moth hosts is found below. Our State is calling on forest managers to respect the potential threat that Gypsy Moth poses and consider it when managing our forests. Certain conditions limit the extent of damage this insect can have on a forest:

1. Encourage a vigorous, healthy forest. Trees with little or no stress are more capable of withstanding Gypsy Moth defoliation while those that are already diseased; insect infested or stressed by drought may not.

- Keep the forest diverse. Oaks are one of the most at-risk trees growing on this site. Growing a wide variety of trees can minimize the number of preferred targets. This means that while some trees may be defoliated or even lost, other species will live on to perpetuate the forest.

**Preferred Hosts**

- Apple
- Alder (speckled)
- Basswood
- Hawthorn
- Oak
- Poplars (some species)
- Willows
- Birch

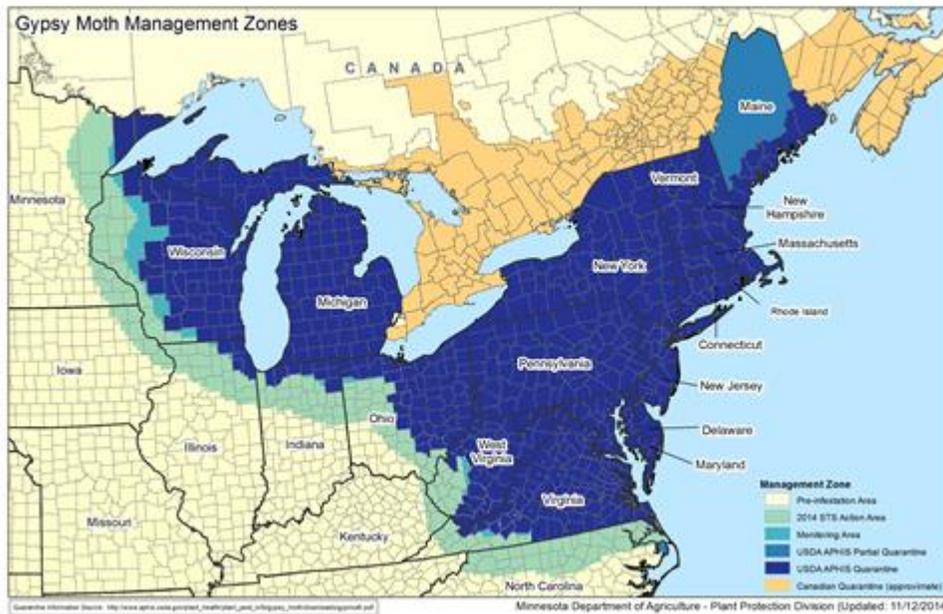
**Intermediate Hosts**

- Elm
- Black Gum
- Hickories
- Maples
- Beech\*
- Hemlock\*
- White cedar (arborvitae)\*
- Pines\*
- Spruce\*

**Rare Hosts**

- Ash
- Balsam fir
- Butternut
- Black walnut
- Catalpa
- Red cedar (Eastern)
- Dogwood
- Holly
- Honey locust
- Sycamore

\* Only in extreme cases or only attacked by older larvae.



Gypsy moth spread throughout the United States.

# Midwest Sewer Services

MPCA Licensed Advanced Designers, Inspectors, Installers, and Service Providers

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January 6, 2020

City of North Oaks  
100 Village Center Drive  
North Oaks, MN 55127

Subject: 2019 North Oaks Sub-Surface Sewage Treatment System Summary

Dear Mayor and Councilmembers:

During the year of 2019, there were twelve construction permits issued for new or replacement sub-surface sewage treatment systems (SSTS). Of these twelve permits, there were five SSTS variance applications. One of these variances was withdrawn by the applicant after it became apparent that a variance would not be required if the applicant made some revisions to their plans. The four remaining variances were approved.

In addition to the construction and variance activities, there was a proposal to change our ordinance to add a point of sale SSTS compliance inspection requirement. A public hearing was held with much debate and it was decided to establish a public comity to discuss the proposed ordinance changes. I'm expecting that during 2020, there will be a determination on what if any changes will be made to the SSTS ordinance.

Please contact me should you have any questions.

Sincerely,



Brian Humpal

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**LEVANDER,  
GILLEN &  
MILLER, P.A.**

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MATTHEW K. BROKL

# MEMO

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**TO: Mayor and City Council**  
**FROM: Bridget Nason, City Attorney**  
**DATE: November 4, 2019**  
**RE: East Oaks PDA Analysis**

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In 1999, the City of North Oaks entered into an extensive agreement with the North Oaks Company related to the development of over 1,600 acres of land owned by the North Oaks Company (East Oaks Development, East Oaks PDA Area, or Subject Property). The 1999 Planned Unit Development Agreement for the East Oaks Project (1999 PDA, 1999 East Oaks PDA, PDA or Agreement) was made by and between the City of North Oaks and the North Oaks Company, LLC (Developer) with an effective date of February 11, 1999.<sup>1</sup> The 1999 PDA contains a number of important provisions which guide the development of the various development sites identified as part of the East Oaks Development throughout the City which are to be developed in conformity and compliance with the terms of the PDA. This memo will provide an overview of the terms of the 1999 PDA, relevant amendments, and respond to several questions raised during the recent Decennial Review.

## 1. Key Provisions of the 1999 PDA

**Text of the PDA.** The 1999 PDA was executed over twenty years ago, and has been amended seven times over the past two decades, most recently in 2010. In reviewing the 1999 PDA, it is helpful to note that many of the terms used in the 1999 PDA are defined terms. Relevant definitions found in the 1999 PDA include the following<sup>2</sup>:

- **Concept Plan:** “Concept Plan” means an optional concept plan authorized by the Zoning Ordinance, approved by the Council, for a Development Site.
- **Conceptual Street and Access Plan:** “Conceptual Street and Access Plan” means **Exhibit B-2**, and any changes thereto requested by the Developer and approved by the Council.
- **Default:** “Default” means and includes, but is not limited to “[f]ailure by the Developer to develop the Subject Property according to the PUD Controls.”

- **Development Guidelines:** “Development Guidelines” means the Findings and Development Guidelines attached hereto as **Appendix 1** which address purpose, land use, Development regulations, performance standards, and findings for the East Oaks PUD project incorporated by reference and made a part of this Planned Development Agreement.
- **East Oaks Project Master Development Plan:** “East Oaks Project Master Development Plan” means all those plans, drawings, and surveys identified on the attached **Exhibit B**, and hereby incorporated by reference and made a part of and including this Planned Development Agreement.
- **East Oaks PUD Project:** “East Oaks PUD Project” means the Development of the Subject Property in accord with the PUD Controls.
- **Future Land Use Plan:** “Future Land Use Plan” means **Exhibit B-1**. Future Land Use Plan also includes any additions or changes thereto requested by the Developer and approved by the Council.
- **Official Controls:** “Official Controls” means ordinances and regulations which control physical development of the City or any part thereof, or any detail thereof and implement the general objectives of the City’s Comprehensive Plan. Official Controls may include ordinances establishing zoning, subdivision controls, site plan regulations and official maps, however, for purposes of this Planned Unit Development Agreement, Official Controls does not include, sanitary codes, building codes and other present or future Ordinances regulating public safety and health generally.
- **Phase Plan.** “Phase Plan” means **Exhibit B-5**. Phase Plan also includes any additions or changes thereto requested by the Developer and approved by the Council.
- **Planned Development Agreement.** “Planned Development Agreement” means this Planned Unit Development Agreement between the City and Developer, and consented to and joined in by NOHOA, and all Exhibits and Appendix 1 attached to or referenced herein.
- **Preliminary Plan:** “Preliminary Plan” means that Preliminary Plan required by the Subdivision Ordinance.
- **Primary Trails:** “Primary Trails” means those trails depicted as such on the Trail Plan.
- **PUD Controls:** “PUD Controls” means and includes, jointly and severally, the following:
  - This Planned Development Agreement including without limitation the Development Guidelines.
  - PUD Ordinance
  - East Oaks Project Master Development Plan
  - Final Plan
  - Subdivision Ordinance
  - Zoning Ordinance
- **PUD Ordinance:** “PUD Ordinance” means Section 7.12 of the Zoning Ordinance of the City of North Oaks and the action of the Council authorizing a Planned Unit District for the Subject Property pursuant thereto which ordinance sets forth the performance standards

flexibility and other zoning devices relating to the Subject Property permitted pursuant to this Planned Development Agreement.

- **Restricted Trails:** “Restricted Trails” means those trails depicted as such on the Trail Plan.
- **Subject Property:** “Subject Property” means in the aggregate and jointly and severally all of the real estate legally described and depicted in the attached **Exhibit A**.
- **Trail Plan:** “Trail Plan” means **Exhibit B-4**, and any changes approved by the Developer and the Council.
- **Zoning Ordinance:** “Zoning Ordinances” means Ordinance 94 of the North Oaks Code of Ordinances.

The 1999 East Oaks PDA including a number of articles which set forth the parameters of the Agreement, a summary of which is found below.

- **Article 1: Findings and Covenants:**
  - The PDA approves the East Oaks Project Master Development Plan which is found to be consistent with the City’s comprehensive plan.
  - The Developer proposed to “create an interconnected system of trails available to members of the NOHOA, all of whom own lots within the City.”
  - The Council approved the East Oaks Project Master Development Plan for the Subject Property.
    - The **East Oaks Project Master Development Plan** is defined as “**all those plans, drawings, and surveys identified on the attached Exhibit B.**”
  - The City prepared an Environmental Assessment Worksheet and adopted a negative declaration for the Project.
  - The Developer and City agree that the Subject Property will be developed and used as the East Oaks PUD Project in accordance with PUD Controls
    - **PUD Controls** are defined, as noted above, as “[t]his Planned Development Agreement including without limitation the Development Guidelines, PUD Ordinances, East Oaks Project Master Development Plan, Final Plan, Subdivision Ordinance, [and] Zoning Ordinance.”
      - The “Development Guidelines” are defined as “the Findings and Development Guidelines attached hereto as Appendix 1 which address purpose, land use, Development regulations, performance standards, and findings for the East Oaks PUD Project.”
  - The Subject Property is found to consist of “approximately 1,650 acres,” and “each development site shall be developed in accord with PUD Controls.”
  - Each development site will be submitted for “Concept Plan, Preliminary Plan, and Final Plan for each particular Development Site, portion of a Development Site, or combination of Development Sites.”
  - **Nothing contained in this Planned Development Agreement is deemed Final Plan approval for any of the Development Sites at this time.**

- Notwithstanding that Preliminary and Final Plan Approval must be obtained for each Development Site, the Parties understand and agree that by this Planned Development Agreement, the City is granting a Planned Unit Development zoning designation pursuant to the PUD Ordinance for the Development Sites and ... and is approving the East Oaks Project Master Development Plan
- **The Parties acknowledge and agree that the East Oaks Project Master Development Plan will have to be supplemented and refined for Development Site Development and Preliminary Plan and Final Plan approval will have to be obtained from the City before any Development can occur on a particular Development Site.**
- **The parties understand, agree, and intend that the Concept Plan, Preliminary Plan, and Final Plan for each Development Site shall be controlled by the East Oaks Project Master Development Plan pursuant to this Planned Development Agreement.**
- The Developer agrees to comply with the PUD Controls.
- **Article 2: PUD Zoning, Open Space Zoning, and Shoreland Variances**
  - The Development Sites are rezoned to Planned Unit Development District.
  - **No Development or use shall be made of the Subject Property or any portion thereof unless such Development or use is consistent with the PUD Controls and consensual amendments thereto.**
  - **Except as provided in Section 5.2 hereof or unless the Council by separate action approves otherwise, no Development or use shall occur on any Development Site, until the Preliminary Plan and Final Plan for that Development Site have been approved by the Council. Concept Plan, Preliminary Plan or Final Plan consistent with this Planned Development Agreement shall be approved by the Council**
  - **Density: The maximum density of each Development Site shall be in accord with the Future Land Use Plan attached hereto as Exhibit B-1 and the Development Guidelines. Development Site Development, overall density, density transfers and use conversion shall be determine SOLELY by reference to this Planned Development Agreement, including the East Oaks Project Master Plan, and Table 1 of the Development Guidelines. (Emphasis added)**
- **Article 3: East Oaks Project Master Development Plan and PUD Controls**
  - Development Conformity: Development of the Subject Property shall conform to this Planned Development Agreement, including the East Oaks Project Master Development Plan, and the Concept Plan, Preliminary Plan, and Final Plan for each Development Site, unless the City approves otherwise.
  - PUD Controls: Subject to such compliance by the Developer, the City agrees to allow Development of the Subject Property in accord with the East Oaks Project Master Development Plan, and consensual amendments thereto.

- The duration of the 1999 East Oaks PDA is thirty years from the Effective Date of the PDA (February 11, 1999).
- **Article 5: Relationship of East Oaks Project Master Development Plan to Concept Plans, Preliminary Plans, and Final Plan**
  - The procedure and substance ... of approval for each Development Site shall be subject to compliance with this Planned Development Agreement, the Subdivision Ordinance, the Zoning Ordinance, and the Development Contract for the Development Site.
  - No Development shall occur on any Development Site until the City approves the Preliminary Plan and Final Plan for that Development Site.
  - The Final Plan shall conform **in material respects** to this Planned Development Agreement, the East Oaks Project Master Development Plan and Preliminary Plan for the Development Site, unless otherwise approved by the Council. It is the intent of the City and the Developer that all PUD Controls other than this Planned Development Agreement shall be consistent with this Planned Development Agreement. **If an inconsistency develops by agreement of the City and the Developer, then a consensual amendment to this Planned Development Agreement shall be executed.**
  - **To the extent an inconsistency or conflict exists among the PUD Controls after approval of the Final Plan by the Council and in the absence of a consensual amendment addressing the inconsistency, the following documents in descending order shall govern:**
    - **Final Plan**
    - **Preliminary Plan**
    - **Concept Plan**
    - **Planned Development Agreement**
    - **East Oaks Project Master Development Plan**
    - **PUD Ordinance**
    - **Subdivision Ordinance**
    - **Comprehensive Plan**
  - **Change of Ordinances: If certain conditions are met, then for thirty years from the Effective date of this Planned Development Agreement with respect to the Subject Property, except to the extent required by state, county, or federal law, regulation, or order, or by order or judgment of a court with jurisdiction over the matter, the City will not without the consent of the Developer for any particular Development Site ... change the City’s Comprehensive Plan or “Official Controls” for that Development Site or the entire East Oaks PUD Project in a manner which is inconsistent with the terms of this Planned Development Agreement with respect to [a number of conditions including] development density.**

- Notwithstanding the restrictions stated above, the Developer may request a modification to the PUD Controls for a specific Development Site within the East Oaks PUD Project and the City may grant the modification.
- **Article 7: Streets**
  - Location and Creation of Streets: The Conceptual Street and Access Plan shows the neighborhood streets and other roads within the Subject Property that will serve the East Oaks PUD Project.
  - Plans: Street layout, right-of-way and pavement widths shall conform to the Performance Standards within the Development Guidelines, unless otherwise requested by the Developer and approved by the Council.
- **Article 12: Park Dedication**
  - Park Dedication – Contribution Requirement: The parties agree that all park dedication requirements for the East Oaks PUD Project and its Development Sites ... shall be and are satisfied by the Developer in the form of ... rough grading of park and trail areas and construction of those trails depicted on the Trail Plan.
- **Article 13: Trails**
  - The Trail Plan depicts three types of Trails: Existing NOHOA Trails, Primary Trails, and Restricted Trails. Portions of the Primary Trails and Restricted Trails as shown on Exhibit C-1 will be open for use within sixty (60) days of execution of this Agreement. To the extent other portions of the Primary Trails or the Restricted Trails are shown on the Trail Plan, then such trails shall be constructed, conveyed and open for use at the times and as depicted on Exhibit C-1.
  - The Primary Trails and Restricted Trails depicted on the Trail Plan will be conveyed to NOHOA pursuant to the Primary Trail Easements and the Restricted Trail Easement, subject to the restrictions set forth in Section 13.5 hereof.
- **Article 19: Miscellaneous**
  - No Third Party Recourse or Rights: This Planned Development Agreement may be enforced solely by the Developer, the City and, to the extent applicable, NOHOA.
  - **Amendment and Waiver: With respect to the Development Sites, the City and the Developer for each Development Site hereto may by mutual written agreement amend this Planned Development Agreement IN ANY RESPECT for that Development Site. Either party may extend the time for the performance of any of the obligations of the other, waive any inaccuracies in representations by another contained in this Planned Development Agreement, which inaccuracies would otherwise constitute a breach of this Planned Development Agreement, waive compliance by another with any of the covenants contained in this Planned Development Agreement and performance of any obligations by the other or waive the fulfillment of any condition that is precedent to the performance by the other party of any of its obligations under this Planned Development Agreement. (Emphasis added.)**

- Major amendments (defined as an amendment which changes the permitted land use within the Subject Property or increases the total number of permitted housing units within the East Oaks PUD Project by more than ten percent (10%)) require a 2/3 vote of the Council; minor amendments require a simple majority vote of all members of the Council.
- **Consent and Joinder by North Oaks Home Owner’s Association**
  - NOHOA “hereby consents to and joins in this Planned Development Agreement for the following and only the following purposes:
    - (1) [T]erminating the 1972 Recreation Proposal;
    - (2) [I]f any part of the East Oaks PUD Project is or becomes subject to NOHOA controls, consenting to the use of any such portion of the East Oaks PUD Project for open houses or events for the purposes of displaying residential units or subdivisions and their amenities; and
    - (3) [C]onsent to and accept the provisions of[:]:
      - a. Article 12 [Park Dedication]
      - b. Article 13 [Trails] and
      - c. Sections:
        - i. 2.4 [Home Owners’ Associations and Restrictive Covenants]
        - ii. 7.9 [Maintenance of Streets] [Note: this is handwritten in the version of the document I have and I do not know when or how it was added and if that was added before or after the other parties executed the document]
        - iii. 19.1 [No Third Party Recourse or Rights]
        - iv. 19.4 [Binding Agreement]

**2. Exhibit B Documents**

Exhibit B to the 1999 East Oaks PDA is comprised of five separate exhibits as follows:

- **B-1: Future Land Use Plan: Exhibit B-1** identifies the various Development Sites (A-L) and notes the future land use designations for all Development Sites (single family detached, mixed use, limited mixed residential, etc.) **Exhibit B-1** specifically references “645 future households” in the development area.
- **B-2: Conceptual Street & Access Plan: Exhibit B-2** shows proposed street configurations and access plans for the various Development Sites, although each Development Site is not shown on the exhibit itself.
- **B-3: Park & Open Space Plan: Exhibit B-3** shows the development areas, development area boundaries, as well as agricultural land, conservancy land, allowable building area within agricultural land, and active and passive private open space.

- **B-4: Trail Map:** Exhibit B-4 shows existing NOHOA trails, Primary Trails, Restricted Trails, Trail Easement, a potential Deer Hills connection, and trail head parking.
- **B-5: Generalized Plan for Phasing and Timing of Developments:** Exhibit B-5 is labeled “Generalized Plan for Phasing and Timing of Developments.” It identifies and names the twelve (12) Development Sites within the Development Area and contains a column titled “Site Total” and a “Total of all Sites” of 645.

### 3. Exhibit C Documents

Exhibit C contains an Open Space Creation/Conveyance Schedule and includes **Exhibit C-1, Trail Conveyance Schedule** as well as **Exhibit C-2, Temporary Trail**.

### 4. Exhibit D Documents

Exhibit D contains a “Form of Development Contract for Development Sites” document. Exhibit D includes within its defined terms section a reference to a Preliminary Plan and a Final Development Plan. There is no specific reference in the Form Development Contract for Development Sites to any concept plan submissions or approvals.

### 5. Exhibit E Documents

Exhibit E includes three Open Space easements as follows: **Exhibit E-1: Conservancy Land, Exhibit E-2: Agricultural Land, Exhibit E-3: Agricultural Land Allowable Building Area.** Exhibit E-1 includes Exhibit E1A which depicts the Conservancy Boundary and also shows “Forest Management Roads and Walking Trails.”

### 6. Exhibit F Documents:

Exhibit F includes **Exhibit F-1, Primary Trail Easement**, as well as **Exhibit F-2, Restricted Trail Easement**, along with **Exhibit F1A, Primary & Misc. Trails** (which is comprised of three separate sheets that include depictions of trails titled “Existing NOHOA Trail,” “Primary Trail,” and “Trail Easement” (use to be determined by NOHOA).

### 7. Exhibit G Documents:

Exhibit G is comprised of two letters from the DNR (G-1 and G-2), which are letters of support dated November 2, 1998, and January 12, 1999 for the concept of the PUD project.

### 8. Declaration of Restrictions (No Exhibit Number) Located after Exhibit G are the following Declaration of Restrictions, labeled in the Table of Contents as follows:

- a. **Exhibit H-Declaration of Restrictions-Conservancy Land**
- b. **Exhibit I-Declaration of Restrictions-Agricultural Land**
- c. **Exhibit J-Declaration of Restrictions-Agricultural Land Allowable Building Area**
- d. **Exhibit K-Declaration of Restrictions-Primary Trails**

e. **Exhibit L-Declaration of Restrictions-Restricted Trails**

**9. Appendix 1: Findings and Development Guidelines**

While the body of the Master Development Plan and Planned Unit Development Agreement contains a number of crucial provisions related to the development of the Subject Property, perhaps none are more crucial than the terms of the Development Guidelines found in Appendix 1. As noted in Section 2.3 of the 1999 East Oaks PDA in a section titled “Density,” the Agreement states that “[t]he maximum density of each Development Site shall be in accord with the Future Land Use Plan attached hereto as Exhibit B-1 and the Development Guidelines. Development Site Development, overall density, density transfers, and use conversion **shall be determined solely by reference to this Planned Development Agreement, including the East Oaks Project Master Development Plan, and Table 1 of the Development Guidelines.**”

Appendix 1 provides further development guidance for each of the individual Development Sites. Table 1 of Appendix 1, titled “Development Sites” contains a table of each of the Development Sites, along with the zoning for the site, planned number of dwelling units, and information regarding use types, density, and height limits. This includes language related to density increases for each site, such as “density increase of 30% allowed.” There is no definition of a “density increase” in the 1999 PDA or the zoning ordinance, but a “density increase” is generally understood as the ability to transfer “unused” density from one site to another, provided all other zoning requirements for development on the site (such as setbacks) are met.

With respect to density, density transfers, and use conversion, Exhibit B-1 and Appendix 1 (Development Guidelines) are the portions of the 1999 East Oaks PDA which are identified as guiding these crucial components of development of the Subject Property. Appendix 1 includes a statement of purpose as well as findings sections (Sections 1 and 2) before turning in Section 3 to the land use regulations that apply to the subject property, namely the identification of four separate types of uses:

- a. Residential Uses:
  1. RSL-PUD, Residential Conservancy Homes Lots
  2. RSM-PUD, Residential Detached Open Space Home Lots
  3. RMM-PUD, RMH-PUD, and RCM-PUD, Residential Detached and Attached Open Space Home Lots, including various types of multi-family dwellings
- b. Commercial Uses:
  1. Identified as per City Zoning Ordinance, Section 7.10 for residential commercial mixed district (RCM), ... as further limited in Table 1 of Section 5 hereof
- c. Active and Passive Open Space (to be used only for five specified uses)
- d. Protected Land (to be used only as permitted in the Open Space Easements and Trail Easements and the Conservation Easements)

Section 4 of Appendix 1 next establishes performance standards for each type of permitted development before establishing the types of permitted development on the Subject Property.

Section 5 starts by noting that “[t]he Comprehensive Plan currently provides for a maximum of 645 dwelling units and the commercial development of 21 acres within the Subject Property.” Section 5 goes on to identify five types of Development within the Development Sites on the Subject Property identified as follows:

- A. Single Family Detached. These Development Sites will consist entirely of Residential Conservancy Lots and Residential Detached Open Space Home Lots. Zoning: RSL-PUD, RSM-PUD.
- B. Limited Mixed Residential. These Development Sites will include Residential Detached Open Space Lots and/or Residential Attached Open Space Home Lots. Zoning: RMM-PUD and RMH-PUD.
- C. Mixed Residential. These Development Sites will include Residential Detached Open Space Lots and/or Residential Attached Open Space Home Lots including various types of multi-family dwellings. Zoning: RMH-PUD.
- D. Limited Mixed Use. These Development Sites will include Residential Detached Open Space Lots and/or Residential Attached Open Space Home Lots including various types of multi-family dwellings and/or Commercial/Service uses other than food, liquor, gas or video sales. Zoning: RCM-PUD.
- E. Mixed Use. These Development Sites will include Residential Detached Opens Space Lots and/or Residential Attached Open Space Home Lots including various types of multi-family dwellings and/or Commercial/Service uses. Zoning: RCM-PUD

**Table 1 indicates the type of development, numbers and types of dwelling units, and other Development Site Performance Standards.**

Table 1 found in Appendix 1 includes the identified Development Sites A-M, and includes the zoning classification, planned number of **dwelling units**, and use types, density and height limitations, including allowable density increase and maximum Floor Area Ratios. Following Table 1 is the following language related to the number of dwellings permitted, the number of commercial acres permitted, and the conversion of permitted uses.

***Number of Dwellings Permitted:*** The number of **dwelling units** planned for each Development Site is shown in Table 1. Where the number of **approved dwelling units** in an individual Development Site varies from the number of dwelling units that is specified in Table 1, **the aggregate number of proposed dwelling units in remaining undeveloped Development Sites shall be adjusted by the same number.** Concurrent with each application for Development which includes such variation in number of dwelling units, the Developer shall provide the City with its best estimate as to the future allocation of remaining units to specific underdeveloped Development Sites.

***Number of Commercial Acres Permitted.*** The number of commercial use acres permitted within the Development Sites is 21. These acres may be located in any or all of the Development Sites with a Zoning Designation of RCM-PUD.

**Conversion of Permitted Uses:** The limits of 645 dwelling units and 21 commercial use acres may be varied as follows:

- a. Should the Developer elect to forego Development of some or all of the 21 commercial acres, the number of permitted dwelling units within the Development Sites will be increased at the rate of **5 dwelling units for each full acre of commercial Development forgone.**
- b. Should the Developer elect to forego Development of the full 645 dwelling units, the number of permitted acres for commercial Development within the Mixed Use Development Sites will be increased at the rate of one acre of commercial use for each 5 dwelling units foregone, except that if the increased use is office then 2.5 dwelling units shall be foregone for each additional acre of office use.

### **10. Ordinance 93: Subdivision Ordinance**

Immediately following Appendix 1 is a copy of Ordinance 93, the title of which is the “Subdivision Ordinance.” While dated for signature in 1998, the Ordinance appears to have been adopted on February 11, 1999, along with the approval of the PDA. Ordinance 93 repealed several previously-existing ordinances. The stated purpose of Ordinance 93 is to “implement the Comprehensive Plan as adopted by the City Council and to effect the purposes set forth in Minnesota Statutes, Section 462.351.” Included in the salient definitional terms found in Ordinance 93 are the following:

- **Dwelling Unit:** One (1) or more rooms connected together, constituting a separate, independent housekeeping unit for owner occupancy, rental or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or Dwelling Units which may be in the same Structure, and containing independent cooking, sleeping and sanitation facilities.
- **Useable Area:** The area of a Lot, **excluding all required Setbacks, Easements,** and Wetlands, where the topographic and soil conditions and configuration are suitable for each of the following in some section of the area: construction of a Dwelling, future additions, Accessory Structure, well site, two Individual Sewage Treatment System areas (for an unsewered Lot), yard, driveways and required parking areas. During the Subdivision process only, when calculating the Usable Area of a proposed Lot, the Subdivider may include any trail Easement area of over 2,000 square feet per Lot and may be given partial credit for other Easements where there is area available for normal residential Use as defined for Usable Area.

Ordinance 93 establishes a two-stage process for obtaining approval of a Plat for a Major Subdivision, namely submission of a Preliminary Plan with a review and approval process by the Planning Commission and Council; following approval of the Preliminary Plan, the subdivider may file a Plat with the City, which the Council may submit to the Planning Commission for review, and which ultimately must be acted upon by the City Council. **Nowhere within Ordinance 93 is there a specific requirement for submission of a “Concept Plan,” and**

**likewise there is no requirement for review and/or approval of a Concept Plan prior to submission of a Preliminary Plan.**

### **11. Ordinance 94: Zoning Ordinance.**

Simultaneously with the adoption of Ordinance 93 on February 11, 1999, the City Council adopted Ordinance 94, the title of which is “Zoning Ordinance,” the purpose and intent of the which was to “divide the City into Use Districts and establish regulations in regard to location, erection, construction, reconstruction, alteration, and Use of Structures and Land” and to, among several purposes, “protect such Use Districts[,] to promote orderly Development and redevelopment.” Ordinance 94 repealed a number of existing ordinances, and includes the following relevant definitions:

- **Dwelling Unit:** One (1) or more rooms connected together, constituting a separate, independent, housekeeping unit for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or Dwelling Units which may be in the same Structure, and containing independent cooking, sleeping and sanitation facilities.
- **Floor Area Ration (FAR):** The ratio of Total Floor Area to Gross Lot Area, excluding two-thirds (2/3) of any DNR and/or VLAWMO designated Wetland areas except that the determination of the FAR for Lots lawfully existing on July 1, 1996 shall exclude two thirds (2/3) of only DNR designated Wetlands.
- **Gross Lot Area:** Total area of a Platted Lot excluding Road Easement(s).
- **Lot Area:** The area of a horizontal plan within the Lot Lines.
- **Plat:** A map, plan or layout of a city, town, section or Subdivision indicating the locations and boundaries, Streets, Roads and Easements of individual properties and includes Registered Land Surveys. The Plat shall be in the form [] capable of being filed with the Registrar of Titles of Ramsey County as a Registered Land Survey (RLS) showing the Subdivided parcel’s boundaries and Lot or tract boundaries.
- **Usable Area:** The area of a Lot, **excluding all required Setbacks, Easements, and Wetlands** where the topographic and soil conditions and configuration are suitable for each of the following in some section of the area: construction of a Dwelling Unit, future additions, Accessory Structures . . . . During the Subdivision process only, when calculating the Usable Area of a proposed Lot, the Subdivider may include any trail Easement area of over 2,000 square feet per Lot and may be given partial credit for other Easements where there is area available for normal residential Use as defined for Usable Area.

Section 7.12 of Ordinance 94 establishes the PUD – Planned Unit Development District, including requirements for a PUD Master Development Plan and a Planned Development Agreement, the terms of which “shall be binding on the City and the Owner/applicant and their successors and assigns to the extent and for the duration provided in the Planned Development Agreement. Section

7.12.2.B establishes the process for application for final development plans for phases in a PUD, and states that “[a]pproval of the Final Development Plans for Phases shall be subject to procedures in the Subdivision Ordinance, and as agreed to in the PDA.” Subpart 7.12.2.B.1 contains the following relevant language regarding concept plans: “In order to receive guidance on the design of a PUD phase prior to submission of an application for Final Development Plan approval for a Phase, an Applicant **may** submit a Concept Plan for review and comment by the Planning Commission and City Council. **Submission of a Concept Plan is optional for a phase.**” Ordinance 94 further notes that “[c]omments by the Planning Commission and the City Council shall be for guidance only and, shall not be considered binding upon the Planning Commission, City Council, or Applicant regarding the approval of the Final Development Plans for a Phase.” Subpart 7.12.2.B.2 further provides that “[f]or all Development within a PUD or Phase of a PUD, a Preliminary Plan must be submitted to the City for review by the Planning Commission and approval of the City Council. ... The Applicant shall provide proof that the Preliminary Plan and Site Plan (if required) are consistent with the approved Master Development Plan and agreed upon PDA.” Section 2(c) states “[i]n considering the Preliminary Plan and Site Plan the Council shall consider the following: Consistency with the approved Master Development Plan and agreed upon PDA; impacts on existing and anticipated traffic; parking; pedestrian and vehicular movements; ingress and egress; Building locations, height and size; architectural and engineering features; Landscaping; lighting; provisions for utilities; site grading and drainage; Green Space ... and other related matters.” Finally, the section notes that “[p]rocedures for Amendments to the PUD Master Development Plan or Final Development Plans for phases shall be set forth in the PDA.” Area requirements including gross density, FAR, and Lot Coverage are established within each of the various PUD Districts. Note that while Ordinance 94 does not contain a requirement for submission of a Concept Plan as part the development process for PUD phases, Ordinance 129, adopted on May 9, 2019, does required the submission of a Concept Plan prior to application of a plan for final development of a phase in a PUD.

## **12. West Black Lake Development Agreement Amendment.**

The final two documents contained within the 1999 PDA are an Amendment to the previously executed Development Agreement for West Black Lake along with an Amendment to Wilkinson Lake Control Structure Agreement and a Right of First Refusal. In the early 1990’s, the City approved Phases I, II, and III of the West Black Lake Development, which was proposed as a five-phase development.<sup>3</sup> In conjunction with the execution of the PDA, those areas designated as Phases 4 and 5 were removed from the coverage of that agreement.<sup>4</sup>

## **13. 1998 EAW for the East Oaks Planned Unit Development.**

In 1998, the City, as the Responsible Governmental Unit (RGU), completed an EAW for the East Oaks Development, as required by Minn. R. P. 4410.4300, subd. 19(D)(An EAW is required for “250 unattached units or 375 attached units in a city within the seven-county Twin Cities metropolitan area that has adopted a comprehensive plan. ...”) The EAW found that there was no need for an EIS, and a negative declaration was issued. Once a negative declaration is issued, a new EAW is required only if, “after a negative declaration has been issued but before the proposed project has received all approvals or been implemented, the RGU determines that a substantial change has been made in the proposed project or has occurred in the project’s circumstances, which change may affect the potential for significant adverse environmental effects that were not

addressed in the existing EAW.” The City of North Oaks is the RGU for the East Oaks Development.

The EAW describes the project as “a multiple-phased development ... to provide 645 residential units and approximately 109,770<sup>5</sup> square feet of commercial development distributed among 12 Development Sites that encompass 780 acres [and] [t]he entire project area encompasses about 1,666 acres.” The EAW further states “[f]uture market conditions will dictate the types of homes constructed, but the number of residential units will not exceed 645. ... **Concept Plans discussed in this EAW may be subject to revisions involving the types of residential units, the specific locations of buildings, and the distribution of commercial development among Development Sites E, G, and H.**” The EAW includes a table identifying the various Development Sites, size (acreage), zoning, proposed residential units. The EAW identifies and lists the physical impacts on Water Resources, including wetland impacts anticipated for each Development Site. It is further noted that “[r]oadways will need to be constructed within each Development Site to provide access to the developments. The effects of these improvements are described throughout this EAW as integral parts of the Development Sites that they will serve. **There are no known infrastructure improvements proposed on lands immediately adjacent to the project area that would exceed environmental review thresholds.**” The EAW further notes that “[s]ignificant adverse environmental effects are not expected to result from the cumulative effect of development within the City of North Oaks. **The preservation and management of 886 acres of Protected Land proposed as part of the East Oaks Planned Unit Development is expected to maintain a relatively rich natural resource base in the project area.**” Finally, Exhibit 3 of the EAW titled Environmental Assessment Worksheet: Open Space, Parks, and Trails shows potential trails, proposed trails, and existing trails, and notes that “Final Trail and rec. area locations to be determined at the time of development. This map represents general locations.”

#### **14. Amendments to the 1999 East Oaks PDA.**

Since its adoption, the 1999 PDA has been amended seven times. A summary of those amendments is provided below.

##### **a. First Amendment to the PDA:**

- i. Effective date: June 14, 2001
- ii. Type of Amendment: Minor
- iii. Parties to Amendment: City and North Oaks Company
- iv. Substance of Amendment: Extended the time period for the Developer to deliver evidence of title to August 1, 2002.

##### **b. Second Amendment to the PDA:**

- i. Effective Date: July 11, 2001
- ii. Type of Amendment: Minor
- iii. Parties to Amendment: City and North Oaks Company
- iv. Substance of Amendment: Table 1 of Appendix 1 of the Agreement is amended by adding a new sentence to the end of the most right-hand column for Use Types, Density and Height Limitations for Site L as follows: “Floor

Area Ratio to be calculated in the aggregate, except, no single dwelling unit shall exceed 6,000 square feet in size.”

**c. Third Amendment to the PDA:**

- i. Effective Date: July 11, 2001
- ii. Type of Amendment: Minor
- iii. Parties to Amendment: City and North Oaks Company
- iv. Substance of Amendment: Extended time period for the Developer to deliver evidence of title to February 1, 2003.

**d. Fourth Amendment to the PDA:**

- i. Effective Date: March 25, 2003
- ii. Type of Amendment: Major
- iii. Parties to Amendment: City and North Oaks Company
- iv. Substance of Amendment: Appendix 1 of the Agreement is “amended consistent with the blacklined version of Appendix I to the Agreement dated January 31, 2002, as amended by the Council of the City of North Oaks on February 14, 2002. A clean copy of Appendix 1 of the Agreement consistent with the blacklined changes shown in Exhibit “A” shall be substituted for the existing Appendix 1 to the Agreement.”

1. Specific Changes to Appendix 1 included the following:

- a. Section 3-Land Use Regulations: Added RCM-PUD, Senior Residential Attached Dwellings as an allowable residential use within the Development Sites of the Subject Property.
- b. Section 4(A)-Performance Standards: Added subpart 4, performance standards for RCM-PUD: Senior Residential Attached. Performance standards include minimum setbacks, and area restrictions including a site area requirement of 8 acres, FAR of .72, and building lot coverages of .28.
- c. Section 4(B): Retail, Services, and Offices: Amended to add language related to setbacks for certain buildings on Site E-1 from the northern boundary of Site E-2
- d. Table 1: Development Sites
  - i. Divided Site E into two sites, E-1 and E-2.
  - ii. Site E-2 is zoned RCM-PUD, with a planned number of Dwelling Units of 150, and uses, types, and density standards. It is noted that there is no density increase for site E-2.

- iii. **Number of Dwellings Permitted:** Amended to add language related to density allowances in remaining undeveloped sites and it is noted that “[p]ermitted density increase percentages shall be applied before any permitted conversion or transfer of units.”
- iv. **Number of Commercial Acres Permitted:** The number of permitted commercial acres **decreased from 21 acres to 13 acres.**
- v. **Conversion of Permitted Uses:** Language is updated to read as follows: “The limits of 645 dwelling units plus 150 dwelling units of senior attached residential housing and 13 commercial use acres may be varied as follows.” The remaining language references 13 commercial acres instead of 21 and adds language exempting out the 150 senior attached residential housing units from the allowed residential-to commercial conversion formula.

e. **Fifth Amendment to the PDA:**

- i. Effective Date: May 8, 2003.
- ii. Type of Amendment: Major
- iii. Parties to Amendment: City and North Oaks Company
- iv. Substance of Amendment: Appendix 1 of the Agreement is “amended consistent with the blacklined version of Appendix I to the Agreement which was approved by the Council of the City of North Oaks on May 8, 2003, a true and correct copy of which is attached as Exhibit “A”. A clean copy of Appendix 1 of the Agreement consistent with the blacklined changes shown in Exhibit “A” shall be substituted for the existing Appendix 1 to the Agreement.”
  - 1. Specific Changes to Appendix 1 included the following: Amendment to language regarding uses, types, density, and height limits for Site E-1, specifically to allow a restaurant and a wellness center/care center as a conditional use. Various setbacks were also revised.

f. **Sixth Amendment to the PDA:**

- i. Effective Date: October 13, 2005.
- ii. Type of Amendment: Major
- iii. Parties to Amendment: City and North Oaks Company

- iv. Substance of Amendment: Appendix 1 of the Agreement is “amended consistent with the blacklined version of Appendix I to the Agreement which was approved by the Council of the City of North Oaks on October 13, 2005, a true and correct copy of which is attached as Exhibit “A”. A clean copy of Appendix 1 of the Agreement consistent with the blacklined changes shown in Exhibit “A” shall be substituted for the existing Appendix 1 to the Agreement.”
  - 1. Specific Changes to Appendix 1 are unknown, as no blacklined version is included with the amendment. It is unknown what if any changes were made to Appendix 1, which appears to match Appendix 1 with the approved changes from the Fifth Amendment.

g. **Seventh Amendment to the PDA:**

- i. Effective Date: June 10, 2010
- ii. Type of Amendment: Major
- iii. Parties to Amendment: City and North Oaks Company

The Seventh Amendment made substantial revisions to the 1999 East Oaks PDA. Referencing 2007 approvals for the site plans for the Mews and Phase 2-North Addition as modifications to site plans previously approved in 2003, which approvals were made subject to the amendment of the PDA, and also referencing the 2009 Decennial Review, the City and the Developer approved the following revisions to the 1999 PDA which were deemed to constitute a Major Amendment:

1. Added definitions for “City Ordinances” and “Pool Ordinances.”
2. Amended the definitions of “Shoreland Ordinance,” “Subdivision Ordinance,” and “Zoning Ordinance” to mean Ordinance 153, 152, and 151 respectively, **and “any and all amendments or revisions thereto or replacements thereof.”**
3. Amended the definition of “Planned Development Agreement” to read “Planned Development Agreement means this Planned Unit Development Agreement between the City and Developer, consented to and joined by NOHOA, and all Exhibits and Appendix 1 attached to or referenced herein and any and all amendments to any of the foregoing.”
4. Amended the definition of “PUD Controls” to includes the pool ordinance, comprehensive plan, and concept plan, and amended Section 5.4 related to inconsistencies among PUD Controls.
5. Adopted an amended version of Appendix 1 dated June 22, 2010, which included the following significant changes:
  - A. Revised the permitted Commercial Uses to reference City Ordinance Section 151.054.
  - B. Revised Section 4: Performance Standards to list “District Standards” which all development in the Subject Property is required to meet, as applicable according to the zoning designation for the area being developed.
  - C. Revised setback requirements for driveways, parking, and swimming pools.

- D. Revised how maximum building height is calculated.
- E. Amended Section 4 to remove the reference to RCM-PUD Senior Residential Attached, and divided the RCM-PUD into two sections, one for Sites E-1 and E-2 and a second section for Site E-3.
  - i. Under the section addressing Sites E-1 and E-2, added language that for Site and Building Plan review now references City Ordinance Section 151.054(L).
  - ii. Adds letter (f) which reads “All permitted, conditional, and accessory uses pursuant to Section 151.054 of the City Ordinance.”
- F. Added a new section referencing Site E-3 which included the following:
  - i. Added minimum setbacks and maximum building height restrictions, as well as minimum parking requirements
  - ii. Revised language that read “Site Area 8 acres” to read “Site Area Restriction: 15.27 acres”
- G. Added a new section regarding the designation of a single setback line in final plans.
- H. Amended language under Section 5, types of development to change the reference to permitted dwelling units and commercial development acreage within the Subject Property, reducing the maximum number of dwelling units from 795 to 645 and increasing the total allowed commercial development from 13 acres to 21 acres.
- I. Amended Table 1, Development Sites as follows:
  - i. Reduced the planned number of dwelling units in Site E-1 from 110 to 45.
  - ii. Added language regarding the calculation for Floor Area Ratio, noting it will be calculated in the aggregate and that no single dwelling shall exceed 6,000 square feet in size.
  - iii. Added in a new category titled “Senior Housing Sites” which lists Site E-2 (which was formerly located under the residential sites section of the development sites table) and lists the Planned Number of dwelling units for that site as 65, with a density increase of 50% allowed. References “All permitted, conditional and accessory uses pursuant to City Code section 151.054” under the uses section and includes various setback-related references.
  - iv. Added a new category titled “Commercial” which lists Site E-3. Under Acreage, states “n/a: buildings to consist of varying unit count. Senior residential unit count must be contained within stated allowable square footage.” Under the uses, types, density, and height limits section, adds significant language including a reference to “senior residential comprising approximately 450,000 square feet in connected buildings, consisting of independent living, assisted living, and skilled nursing.” Notes that there is

- no density increase. Provides for a variety of different setbacks, and modifies the setback from the OHWL for Wilkinson Lake.
- v. **Specifically notes that “total dwelling units and allowed density increase for sites E-1 and E-2 combined is 110 dwelling units with a 50% density increase. Units can be allocated between sites E-1 and E-2 in any manner so long as the total does not exceed the total allowed.**
  - vi. Amends the total number of commercial use acres from 13 to 21, commercial use areas are allowed in any of the development sites zoned RCM-PUD (which are Sites E-1, E-2, G, and H).
  - vii. Updates the references to the total dwelling units to reflect the 645 maximum dwelling unit number and 21 commercial acreage references.
- J. Exhibit B-1: Consists of an updated Future Land Use Map with updated housing counts
  - K. Exhibit B-1.1: Identifies the property which comprises Site E-1.
  - L. Exhibit B-1.2: Identifies the property which comprises Site E-2.
  - M. Exhibit B-1.3: Identifies the property which comprises Site E-3 and state on the bottom of the exhibit “Total Developed Commercial Acreage = 15.27 Acres.”
  - N. Exhibit B-5.1: Lists updated dwelling unit counts for each site
6. Amended **Exhibit B-1.1** to be added in the form of the document attached as Exhibit C-2 hereto, to show further detail of Site E-1 from that shown on Exhibit B-1.
  7. Added a new **Exhibit B-1.2** to be added in the form of the document attached as Exhibit C-3 to further show the detail of Site E-2 from that shown on Exhibit B-1.
  8. Added a new **Exhibit B-1.3** in the form of the document attached as Exhibit C-4 to further show the detail of Site E-3 from that shown on Exhibit B-1.
    - A. **Note: On the bottom of this exhibit, which shows Site E-3, are the words “Total Developed Commercial Acreage = 15.27 Acres.”**
  9. Added a new **Exhibit B-5.1** in the form of the document attached as Exhibit, “to supplement Exhibit B-5 of the agreement **and to reflect the current status of and plan for Development.**” The Parties further agree that “**further supplements to Exhibit B-5 shall be appended to the Agreement from time to time as Development occurs.**”
    - A. **Exhibit B-5.1** lists the PDA designated dwelling units, lists the actual units constructed from 1999-2006 and again from 2007-2009, shows proposed development units in five-year increments from 2010-2048, shows proposed density shifts, and lists permitted density increases. Lists 21 acres of allowed commercial acreage and states that 15.27 actual acres have been developed. Does not specifically list Site E-3 in the development table.

## 15. Analysis of Questions Raised at or in Conjunction with the Decennial Review

Per the 1999 PDA, a decennial review shall be conducted in order for the City and the Developer

to meet and discuss matters related to the PDA. In the summer of 2019, that decennial review was completed. During that process, several questions were raised regarding the status of the 1999 PDA and development of the Subject Property. Listed below are the identified questions and areas of concern raised during this decennial review process.

**a. Was there a mutual mistake of fact related to the calculation of developed commercial acreage for Site E-3 which resulted in the inclusion of references to 15.27 acres of commercial development on Site E-3?**

The PDA is a Contract between the City and the Developer, portions of which are consented to and joined by the NOHOA. A “contract” is “an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law.”<sup>6</sup> “A contract is formed when two or more parties exchange bargained-for promises, manifest mutual assent to the exchange, and support their promises with consideration.”<sup>7</sup> “There is a presumption of validity of contracts under Minnesota law and its courts are generally reluctant to invalidate contracts on the grounds of indefiniteness, especially when both parties have completed extensive performance.”<sup>8</sup> “A valid contract “requires a meeting of the minds concerning its essential elements. The parties must agree with reasonable certainty about the same thing and on the same terms.”<sup>9</sup>

The Minnesota Practice Series provides the following analysis regarding the formation of a contract:

Minnesota courts utilize an objective standard to evaluate evidence of the manifestation of mutual assent. For example, where one party leads another to assume (reasonably) that he assents to the terms of an offer by words, conduct, or both, there is an objective manifestation of assent, despite the first party's subjective intent. A valid contract “requires a meeting of the minds concerning its essential elements.” The parties must agree with reasonable certainty about the same thing and on the same terms. If an alleged contract is so uncertain as to any of its essential terms that it cannot be carried into effect without new and additional stipulations between the parties, it is not a valid agreement. Contracts must be certain in terms, and not so indefinite and illusory as to make it impossible to say just what is promised. At trial, the standard is not what a party meant subjectively, but what the words and actions exchanged would lead a reasonable person to assume. As explained by the Minnesota Supreme Court:

The requisite mutual assent for the formation of a contract ... does not require a subjective mutual intent to agree on the same thing in the same sense, but may be based on objective manifestations whereby one party by his words or by his conduct, or by both, leads the other party reasonably to assume that he assents to and accepts the terms of the other's offer.

When deciding disputes in contract formation, the surrounding facts and circumstances of the transaction in its entirety may be considered in addition to the words used.<sup>10</sup>

A valid contract requires consideration, which the Minnesota Practice Series discusses as follows:

A contract must be supported by “consideration,” which is something of value given in return for a performance or a bargained for promise of performance. Lacking consideration, a valid contract is not formed. Consideration requires the voluntary assumption of an obligation by one party on the condition of an act or forbearance by the other. Consideration may consist of either a benefit accruing to a party or a detriment suffered by another party, and need not pass directly from the promisee to the promisor to be valid. Functionally, consideration is what distinguishes a contract from a gift because only a promise supported by consideration constitutes a contract. Procedurally, where no consideration is evident in an agreement, the party charging its sufficiency bears the burden of proving the sufficiency of consideration.

Consideration must be the result of a bargain,” and generally, any performance that is bargained for is consideration. As the Minnesota Supreme Court explained in *Baehr v. Penn-O-Tex Oil Corp.*:

“[B]argain” does not mean an exchange of things of equivalent, or any, value. It means a negotiation resulting in the voluntary assumption of an obligation by one party upon condition of an act or forbearance by the other. Consideration thus insures that the promise enforced as a contract is not accidental, casual, or gratuitous, but has been uttered intentionally as the result of some deliberation, manifested by reciprocal bargaining or negotiation.<sup>11</sup>

Minnesota law “follows the long-standing contract principle that a court will not examine the adequacy of consideration as long as something of value has passed between the parties.” “The amount of consideration is irrelevant so long as some benefit or detriment is proved.” Where a contract is supported by valuable consideration, such as a detriment incurred in exchange for a promise, a right of one party to terminate it at will does not render it invalid for lack of mutuality of consideration. The Minnesota Supreme Court has explained that “[t]he concept of mutuality has been widely discredited ... and it is now generally recognized that the obligations of the parties need not be substantially equal for there to be a binding contract.”<sup>12</sup>

During discussion at the August 21<sup>st</sup> continued Decennial Review meeting, questions were raised regarding a potential mutual mistake of fact in calculating the developed commercial acreage on Site E-3.

A “mutual mistake” consists of a clear showing of a misunderstanding, reciprocal and common to both parties, with respect to at least some substantial part of the terms and subject matter of a contract.” ... A “material mistake of fact” is one that goes to the very nature of the transaction or purchase. In contrast, “[a] mistake

relating merely to the attributes, quality, or value of the subject of a sale does not warrant a rescission. Neither does a mistake respecting something which was a matter of inducement to the making of the contract, where the means of information were open alike to both parties, and each was equally innocent, and there was no concealment of facts and no imposition.”<sup>13</sup>

“A party seeking reformation of a contract on the ground of mutual mistake bears a heavy burden.” “Proof of the parties' actual intent is fundamental to a claim for reformation.” Reformation of a contract contemplates altering or amending its terms “to reflect the true intent of the parties at the time of its inception.” For reformation of a contract, the “contract is modified to reflect the parties' true intent”; whereas under rescission, “the entire contract is voidable.” As to the elements required to establish a prima facie case of reformation, “[a] party seeking reformation must prove that: ‘(1) there was a valid agreement between the parties expressing their real intentions; (2) the written instrument failed to express the real intentions of the parties; and (3) this failure was due to a mutual mistake of the parties, or a unilateral mistake accompanied by fraud or inequitable conduct by the other party.’”

A written instrument can be reformed by a court if the following elements are proved: (1) there was a valid agreement between the parties expressing their real intentions; (2) the written instrument failed to express the real intentions of the parties; and (3) this failure was due to a mutual mistake of the parties, or a unilateral mistake accompanied by fraud or inequitable conduct by the other party. These facts must be established by evidence which is clear and consistent, unequivocal and convincing. .... Furthermore, “[w]hen both parties acted in good faith and neither misled the other, but nevertheless each party was mistaken and thought he was making a different contract from what the other party supposed he was making, reformation is not an appropriate remedy.” “Absent ambiguity, fraud or misrepresentation, a mistake of one of the parties alone as to the subject matter of the contract is not a ground for reformation.”<sup>14</sup>

Following that discussion, the North Oaks Company submitted a letter to the City dated October 30, 2019, which advised the City that it did not view the commercial acreage calculation found in the 7<sup>th</sup> Amendment to constitute a mutual mistake of fact, and that rather it was a bargained-for term of the Agreement.<sup>15</sup> A unilateral mistake may also justify rescission of a contract in certain circumstances:

The Eighth Circuit has summarized Minnesota's law regarding unilateral mistake by noting that, under Minnesota law, rescission of a contract for mistake is ordinarily founded on either mutual mistake or a “mistake by one [party] induced or contributed to by the other.” Generally, a party cannot avoid a contract based on a unilateral mistake “unless there is ambiguity, fraud, or misrepresentation.” Even when there is no ambiguity, fraud, or misrepresentation, relief from a unilateral mistake is available where enforcement is an “oppressive burden” and rescission would impose no substantial hardship on the other

party. However, a party may not escape contract liability based on unilateral mistake when “the party bears the risk of that mistake.” “A party bears the risk of mistake if it is aware, at the time of contracting, that it has limited knowledge of facts to which the mistake relates, but treats that knowledge as sufficient.” A court may also allocate risk to a party where reasonable.

If only one party makes a mistake, “the contract is still voidable, provided the mistaken party does not bear the risk of mistake and ‘the effect of the mistake is such that enforcement of the contract would be unconscionable or the other party had reason to know of the mistake.’” “A party bears the risk of mistake when the risk is allocated to him by the agreement, by the court on the ground that it is reasonable to do so, or if ‘he is aware, at the time the contract is made, that he has only limited knowledge with respect to the facts to which the mistake relates but treats his limited knowledge as sufficient.’” Courts “examine[] evidence of mistake with particular care and only reluctantly allows a party to avoid a contract on the ground of mistake.”

Applying the principles contained in the *Restatement*, if, at the inception of the contract one party is mistaken as to a basic assumption on which she entered into the contract and the mistake has a materially adverse effect on the agreed exchange of performances, the contract is voidable by her so long as she can prove that:

1. She does not bear the risk of the mistake and the effect of the mistake is such that enforcement of the contract would be unconscionable; or
2. The other party had reason to know of the mistake or the other party's fault caused the mistake.

Reliance by one party may make enforcement of a contract proper, even though requiring compliance would otherwise be unconscionable. If the mistake is discovered and the other party notified before he has relied on the contract, the mistaken party may avoid the contract because the other party is only deprived of the expectation of the “benefit of the bargain.” If, however, the other party has relied on the contract in some substantial way, avoidance may produce adverse reliance. In such a case, enforcement of the contract would not be unconscionable. Nevertheless, if the court can adequately protect the party by compensating him for his reliance under the rules of the *Restatement*(§ 158, “Relief Including Restitution”), the court need not order enforcement. According to the Minnesota Supreme Court:

[I]f the contract as written, is the result of mistake so fundamental that the minds of the parties have never met, or if an unconscionable advantage has been gained by mistake or misapprehension of the party defendant, and the parties can be restored to their original status, a court administering equity will not enforce the contract.

If the other party had reason to know of the mistake, the mistaken party can avoid

the contract regardless of whether its enforcement would be unconscionable.<sup>16</sup>

Limited historical background information related to the preparation and approval of the 7<sup>th</sup> Amendment to the PDA has been received and reviewed. Documents reviewed as part of this review process include the following:

1. Memo to City from North Oaks Company, dated October 10, 2007
2. Memo from City Administrator to Planning Commission, dated May 24, 2010
3. Minutes of several council meetings in 2007 and 2010

Negotiations between the City and the Developer regarding the 7<sup>th</sup> Amendment to the PDA began in 2007 and culminated with the 2010 execution of the 7<sup>th</sup> Amendment to the PDA. Based on the limited City records available regarding the execution of the 7<sup>th</sup> Amendment, it appears that it was approved by the City and Developer following a significant period of discussion/negotiation.<sup>17</sup> Information regarding the content, scope, or deliberative process employed as part of those negotiations was not provided for review as part of the PDA review process. A review of the limited information provided does not offer any specific information regarding how the commercial acreage calculation of 15.27 acres was made or agreed upon by the City.

It appears that discussions occurred between representatives of the City and the Developer that resulted in the preparation of the 7<sup>th</sup> Amendment which included, among a number of substantial changes, a recognition by the City of 15.27 acres of existing commercial development on Site E-3. As noted above, Council minutes from November 8, 2007, state that “[t]he City attorney and the attorney for North Oaks Company are working on some items. Tom Dougherty, North Oaks Company president, explained the seven proposed amendment changes that are being formalized as a result of the April 12 Council meeting.”<sup>18</sup> At the December 13, 2007 Council Meeting, the minutes reflect that a summary of the latest draft of the 7<sup>th</sup> Amendment to the PDA was provided to the Council, and that the “council has concerns over several of the items under consideration.”<sup>19</sup> A motion was made and unanimously adopted to “table the discussion of the 7<sup>th</sup> Amendment to the PDA to a future meeting to be agreed upon.”<sup>20</sup>

Over three years later, the Minutes of the June 10, 2010 council meeting reflect that then-City Administrator Melinda Coleman “presented the North Oaks Company application for approval of the proposed Seventh Amendment to the Planned Unit Development Agreement and Accompanying Exhibits (A-D) [which] include seven areas of proposed change.”<sup>21</sup> The Council unanimously approved “application 10-04, the Seventh Amendment to Planned Unit Development for the East Oaks Project” with two listed conditions. Based on the very limited available information regarding that negotiation and revision process, there is no information in the record reviewed to date which would provide any concrete insight into how the developed commercial acreage for Site E-3 was calculated or what information the City had or did not have regarding the actual acreage of Site E-3 and the approved commercial acreage.

#### **b. Possible Acreage Calculations for Site E-3, Waverly Gardens**

Site E-3 is credited with containing 15.27 acres of commercial development per the 7<sup>th</sup> Amendment

to the PDA. This 15.27-acre figure is found in the 7<sup>th</sup> Amendment in at least two places, namely on Exhibit B.1-3 and in Appendix 1, on p. 6 of 11. Questions have been raised regarding this figure based on the fact that the GIS records for Ramsey County<sup>22</sup> show a total acreage for the four separate parcels (tracts) which comprise Site E-3 which are identified as follows with the following acreages:

- |      |              |             |
|------|--------------|-------------|
| i.   | 043022210010 | Acres: 3.13 |
| ii.  | 043022210019 | Acres: 7.6  |
| iii. | 043022210008 | Acres: 0.58 |
| iv.  | 043022210011 | Acres: 4.98 |

**Total Acreage per Ramsey County GIS: 16.29 acres**

It is unknown at this time how the Ramsey County acreage is calculated. It is assumed, for purpose of this discussion, as being calculated off the full acreage of the combination of the various RLS tracts that comprise Site E-3. Additionally, it is worthwhile to note that when looking at Exhibits B.1-1, B.1-2, and B.1-3, only exhibit B.1-3 shows the site itself (in this case Site E-3) not extending into Centerville Road (in other words, not showing the full extent of the property which comprises Site E-3 by apparently failing to show the area of the property which is encumbered by a right-of-way easement, while the other exhibits show Sites E-2 and E-1 extend into Centerville Road.) Additionally, Exhibit B.1-3 is the only exhibit that shows an acreage for the site.

As noted above, a portion of Site E-3 is encumbered with a road easement for the benefit of Ramsey County. Per RLS 586, that easement is 60 feet wide over a portion of Tracts A, E, and D. In its August 16, 2019 letter, the North Oaks Company asserts that “The 15.27 acres [of attributed commercial development for Site E-3] is the area depicted on Exhibit C-4 of the Seventh Amendment (which is Exhibit B.1-3 of the PDA). Exhibit C-4 does not include all of Tract D and Tract E of Registered Land Survey No. 586. The portion of Tract D and Tract E that underlie Centerville Road are not included on Exhibit C-4 as they are not [sic] subject to easement for public use and are not available for commercial use. This is why the gross acreage of the Registered Land Survey tracts are not the same as the Seventh Amendments calculation of commercial use area.”<sup>23</sup>

No specific calculation is shown on the RLS of the easement area, but it is shown as a 60-foot-wide easement, the total length of which is shown on Tracts E and D (Tract A is a part of Site E-1) and appears to be somewhere between approximately 700 and 750 feet long (the length of the various segments shown on the RLS is unclear. Review of a more legible copy of the survey might assist with determining with specificity the length of the easement). Taking the length times the width of the easement area on tracts E and D (700 x 60 or 750 x 60) results in a total square footage for the easement area of 42,000 to 45,000 square feet, or 0.964 to 1.033 acres. If the Ramsey County GIS calculations are correct, and the actual acreage of Site E-3 is 16.29 acres,  $16.29 - 0.964 = 15.326$ , and  $16.29 - 1.033 = 15.257$ . It appears that the total commercial acreage attributed to Site E-3 may be the result of taking the total acreage of the real property that comprises Site E-3 and reducing that total acreage by the amount of property encumbered by the road easement. This result may have stemmed from the definitions found in Ordinance 93 and Ordinance 94 (now Chapters 151 and 152 of the City Code) which define the “usable area” of a lot as “the area of a lot, excluding all required setbacks, easements, and wetlands, where the topographic and soil



Property.

**g. Can the City deny future development applications for the East Oaks property that are not in conformity with the PDA as amended?**

Yes. The City retains the legal ability to deny applications that are not in conformity with the requirements of the PDA, including development density maximums.

**h. Do the 235 dwelling units on the Waverly Gardens site (Site E-3) count against the 645 dwelling unit maximum for the East Oaks Development?**

It appears that, per the 7<sup>th</sup> Amendment to the PDA, only the commercial acreage was attributed to the development on Site E-3, and none of the dwelling units were “counted” against the 645 dwelling unit maximum for the East Oaks Development. Based on the language in the 7<sup>th</sup> Amendment, Site E-3 was treated as Commercial Development, which does count toward the 21-acre commercial development allotment for the Subject Property. The individual dwelling units are not counted (right or wrong) towards the 645 dwelling unit maximum; rather the development is “counted” only against the 21 acres of commercial development allocated to the East Oaks Development. Thus the reported 235 previously-constructed dwelling units<sup>25</sup> on Site E-3 are not explicitly identified as being included in the dwelling unit counts for the Subject Property.

**i. Is the City required to “count” future mixed use commercial development in the same way that it counted the commercial development in Site E-3?**

No. The PDA contains no “formula” for counting and allocating mixed use commercial and residential development between commercial acreage and residential dwelling units. Future developments may be “counted” differently, including with respect to allowable density increases, counting of dwelling units, and calculation of commercial acreage development.

**j. Could an updated EAW be required before additional development occurs in the East Oaks Project area?**

Potentially. An EAW was completed in 1998 for the East Oaks Project. Minn. R. P. 4410.1000, subd. 1 defines an EAW as follows: “The EAW is a brief document prepared in worksheet format which is designed to rapidly assess the environmental effects which may be associated with a proposed project. The EAW serves primarily to: A. aid in the determination of whether an EIS is needed for a proposed project; and B. serve as a basis to begin the scoping process for an EIS.” A new EAW is required “if, after a negative declaration has been issued but before the proposed project has received all approvals or been implemented, the RGU determines that a **substantial change** has been made in the proposed project or has occurred in the project's circumstances, **which change may affect the potential for significant adverse environmental effects** that were not addressed in the existing EAW.”<sup>26</sup> The terms “substantial change” and “significant adverse environmental effects” are not defined in Minn. R. P. 4410. However, Minn. R. P.4410.1700, subp. 7 establishes the following criteria for determining whether a project has the potential for significant environmental effects:

In deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:

- A. type, extent, and reversibility of environmental effects;
- B. cumulative potential effects. The RGU shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project;
- C. the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project; and
- D. the extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.

Should the City determine that a “substantial change” has been made in the proposed project or has occurred in the project’s circumstances which may affect the potential for significant environmental effects that were not addressed by the 1998 EAW, then a new EAW is required for the Project.

**k. What version of City Ordinances controls development of the East Oak PDA Area?**

Section 6.2 of the PDA notes that if certain conditions are met, then “for thirty (30) years from the Effective Date of this Planned Development Agreement with respect to the Subject Property, except to the extent required by state, county, or federal law, regulation or order, or by order or judgment of a court with jurisdiction over the matter, the City will not without the consent of the Developer for any particular Development Site or the entire East Oaks PUD Project as shown on the East Oaks Project Master Development Plan in which the Developer has such an ownership interest change the City’s Comprehensive Plan or “Official Controls” for that Development Site or the entire East Oaks PUD Project in a manner which is inconsistent with the terms of this Planned Development Agreement with respect to the following: permitted, conditional and accessory uses ... development density [or several other listed conditions].” “Official Controls” are defined as “ordinances and regulations which control physical development of the City or any part thereof ...” and specifically include “ordinances establishing zoning, subdivision controls [and] site plan regulations.” However, in Section 3 of the 7<sup>th</sup> Amendment to the PUD, the definitions of Shoreland Ordinance,” “Subdivision Ordinance,” and “Zoning Ordinance” are amended to mean Ordinance 153, 152, and 151 respectively, and **“any and all amendments or revisions thereto or replacements thereof.”** It appears that the Developer, by its execution of the Seventh Amendment to the PUD, may have consented to all future changes to City Code Chapters

151, 152, and 153, subjecting them to current Zoning Ordinance and Subdivision Ordinance requirements.

**l. How many “dwelling units” have been constructed to date at the Rapp Farms Site?**

157 separate lots have been developed on the Rapp Farms site, 156 with residential dwellings and 1 lot with a pool and clubhouse. Because the City and Developer have not updated Exhibit B.5, there has been no written agreement between the parties regarding the actual unit count for the Rapp Farms Site, or any other development that has occurred since the adoption of the 7<sup>th</sup> Amendment in 2010.

**m. What outstanding issues need to be addressed in the near term?**

**i. Reference to 90 units built in Site E-2 in Amended and Restated Exhibit B-1.5 (7<sup>th</sup> amendment)**

Exhibit B-1.5 shows 90 units have been developed on Site E-2. However, only 76 actual units have been constructed, and the Developer has indicated that Presbyterian Homes owns Tract Q, RLS 603, and has the “option” to build 14 additional dwelling units on that Tract. It is not clear at this time what specific approval for 14 additional dwelling units to be built on Tract Q has been granted. The “actually built” numbers in Exhibit B-1.5 should reflect actual dwelling units constructed. To the extent that the Developer has specifically assigned its right to construct a specific number of dwelling units to Presbyterian Homes to be built on a portion of Site E-2 (assuming solely for purposes of this paragraph that all other requirements of the PDA related to the Zoning Ordinance are met such that 14 dwelling units could be built on Tract Q, located on Site E-2, and that Presbyterian Homes intends to construct all 14 allocated dwelling units), Exhibit B-1.5 should be updated via an amendment executed by, at a minimum, the City, Presbyterian Homes, and the Developer, or in the alternative, an assignment of the Developer’s right to construct 14 out of the remaining residential dwelling units for the East Oaks Development to Presbyterian Homes should be provided to the City.

**ii. Update of housing counts**

Exhibit B.1-5 has not been updated since the adoption of the 7<sup>th</sup> Amendment in 2010, despite the development of a number of dwelling units, primarily on the Rapp Farm site. The City and Developer should adopt an updated version of Exhibit B.1-5 in order to update that exhibit to reflect actual development to date, including addressing the calculation of the Rapp Farm development to date.

**Conclusion**

The 1999 East Oaks PDA, as subsequently amended, establishes a framework for the development of the East Oaks area. Moving forward, it is recommended that the City address the outstanding issues identified above. It is further recommended that the City and Developer update the PDA as necessary as future developments are approved in order to ensure that all parties and stakeholders in the development of the East Oaks Area are kept apprised of the status of the development and current dwelling unit counts.

- <sup>1</sup> 1999 East Oaks PDA, p. 1.
- <sup>2</sup> All definitions found in Article 19, Section 19.13
- <sup>3</sup> Three Bold Ventures, Joan C. Brainerd and Richard E. Leonard, p. 158 (2007).
- <sup>4</sup> Amendment to Development Agreement, City of North Oaks, Subdivision 92-2, West Black late, Executed by the North Oaks Company 1/28/99, included in East Oaks PDA materials.
- <sup>5</sup> 109,770 square feet = 2.5199 acres ([www.unitconverters.net](http://www.unitconverters.net))
- <sup>6</sup> Minn. Practice Series, Business Law Deskbook, § 7.1(a) (2019).
- <sup>7</sup> Minn. Practice Series, Business Law Deskbook, § 7.1(a) (2019).
- <sup>8</sup> Minn. Practice Series, Business Law Deskbook, § 7.1(e) (2019).
- <sup>9</sup> Minn. Practice Series, Business Law Deskbook, § 7.4(b) (2019).
- <sup>10</sup> Minn. Practice Series, Business Law Deskbook, § 7.4(b) (2019).
- <sup>11</sup> Minn. Practice Series, Business Law Deskbook, § 7.30 (2019)
- <sup>12</sup> Minn. Practice Series, Business Law Deskbook, § 7.31 (2019)
- <sup>13</sup> Minn. Practice Series, Business Law Deskbook, § 7.50 (2019)
- <sup>14</sup> Minn. Practice Series, Business Law Deskbook, § 7.50 (2019)
- <sup>15</sup> See October 30, 2019 Letter from Tom Bray re North Oaks Company – Decennial Review of Master Development Plan and Planned Unit Development for East Oaks Project
- <sup>16</sup> Minn. Practice Series, Business Law Deskbook, § 7.52 (2019)
- <sup>17</sup> See minutes from council meetings in 2007 and 2010.
- <sup>18</sup> Minutes of the Regular Council Meeting of the City Of North Oaks from the November 8, 2007 council meeting.
- <sup>19</sup> Minutes of the Regular Council Meeting of the City of North Oaks from the December 13, 2007 council meeting.
- <sup>20</sup> Minutes of the Regular Council Meeting of the City of North Oaks from the December 13, 2007 council meeting.
- <sup>21</sup> Minutes of the Regular Council Meeting of the City of North Oaks from the June 10, 2010 council meeting.
- <sup>22</sup> ([www.maps.co.ramsey.mn.us](http://www.maps.co.ramsey.mn.us)), last accessed 11/07/19.
- <sup>23</sup> August 16, 2019 Letter from North Oaks Company to the City of North Oaks.
- <sup>24</sup> City Code, Section 151.005 (2019).
- <sup>25</sup> Housing Counts per Ramsey County Property Records, Parcel ID 043022210019, [www.maps.co.ramsey.mn/us](http://www.maps.co.ramsey.mn/us), last accessed 11/07/19.
- <sup>26</sup> Minn. R. P. 4410.1000, subd. 5 (2019).

\*= Based on draft updated Exhibit B-5.1 dated 8/16/19, prepared by the North Oaks Company.

\*\*=This number shows the total number of dwelling units permitted in each site if the permitted density increase were applied. Under the PUD, the maximum dwelling unit count is 645, meaning all of the density increases shown could not occur on each site. Site-specific dwelling unit calculations provided for informational purposes only.

\*\*\*= Rapp Farm consists of **157 lots**, one of which contains a clubhouse and pool and not a dwelling unit. Only Dwelling Units are counted toward the dwelling unit maximum. How the lot with the pool and clubhouse is counted is not explicitly spelled out in the PUD. The City will need to address this clubhouse/pool lot development when it updates Exhibit B-5.1., and must determine if the Pool and Clubhouse meets the definition of a Dwelling Unit. If the clubhouse and pool meet the definition of a Dwelling Unit, then it should be counted in the Rapp Farms count and the housing count should be updated to **157**.

\*\*\*\*= Commercial Acreage number taken from references to the same throughout the 7th Amendment. See memo for additional detail regarding calculations related to developed commercial acreage.

\*\*\*\*\*=Per 7th Amendment, the total number of dwelling units for sites E-1 and E-2 is 110. Dwelling units can be located on either site.

\*\*\*\*\*= August 16, 2019 correspondence from North Oaks Company states that Site E-2 is developed with 76 independent living apartments, each of which is counted as one housing unit, and notes that "Waverly Gardens retains the right to develop 14 additional housing units on the site (RLS 603, Tract Q) it owns west of Wilkinson Lake Boulevard, which is a total of 90 housing units." Units which are not yet built should not be included in the "already built" unit count, but are included for this site only based on the representation that Presbyterian Homes has the right to construct 14 additional dwelling units on Site E-2.

\*\*\*\*\* = It is unclear if four units for Anderson Woods/Wilkinson Villas have been constructed. This table reflects the 8.16.19 correspondence from the North Oaks Company that no dwelling units have been constructed on Site F (Anderson Woods/Andersonville).

## MEMO

Date: November 22, 2019  
To: City Council  
From: City Administrator Mike Robertson  
Re: East Oaks PDA 7<sup>th</sup> Amendment

I wanted to provide some more detailed information related to the 7<sup>th</sup> Amendment to the East Oaks PDA. In terms of the attention paid to the 7<sup>th</sup> Amendment this is what the minutes show.

### **CITY COUNCIL**

For seven months, from October of 2009 through April of 2010, the City Council minutes reflect that every month either Mayor John Schaaf, City Attorney Dave Magnuson, or City Administrator Melinda Coleman indicated that they had been meeting with the North Oaks Company regarding the 7<sup>th</sup> Amendment. Every once and a while they would mention what issues were being discussed. They even took time in January, 2010 to proclaim Joan Brainard Day. In the May, 2010 Council minutes Mayor Schaaf stated that the 7<sup>th</sup> Amendment had been sent to the Planning Commission to seek their opinion.

### **PLANNING COMMISSION**

In the April, 2010 minutes, Planning Commission Chair Bill Campbell notes that he has been involved in the discussions with the North Oaks Company and that the 7<sup>th</sup> Amendment will be on the May Planning Commission agenda.

In the May 27, 2010 Planning Commission minutes, the Planning Commission reviewed the 7<sup>th</sup> Amendment. Planning Commissioner Dick Hara, seconded by Planning Commissioner Katy Ross, moved approval of the 7<sup>th</sup> Amendment and it was approved unanimously.

On the June 10, 2010 Council meeting the Council reviewed the 7<sup>th</sup> Amendment. Councilmember Marty Long, seconded by Councilmember Gregg Nelson, moved approval and it passed unanimously.

## **CONCLUSION**

The publicly available records show that City officials negotiated for at least seven months with the North Oaks Company, keeping the rest of the City Council and the community aware that negotiations were occurring. Then they sought the opinion of the Planning Commission. The Planning Commission unanimously recommended approval of the 7<sup>th</sup> Amendment. The City Council then unanimously approved the 7<sup>th</sup> Amendment. Though we don't have any detail of how some of the numbers in the agreement were negotiated, its clear that a lot of effort from City officials went into the negotiations and that the Council sought an opinion from the Planning Commission before they made their decision.

Site	Name	Zoning	Planned Number of Development Units	Density Increase Allowed	Planned Number of Development Units	Density Increase Allowed
Site A	Peterson Place	RMM-PUD	40	30%	40	30%
Site B	East Preserve	RSM-PUD	2	30%	2	30%
Site C	Nord	RSM-PUD	10	30%	10	30%
Site D	Rapp Farm	RMH-PUD	200	50%	200	50%
Site E	East Wilkinson**	RCM-PUD	110	50%	<b>110</b>	50%
Site F	Andersonville a) Anderson Woods	RMH-PUD	10	30%	10	30%
Site G	Gate Hill	RCM-PUD	68	30%	68	30%
Site H	Island Field	RCM-PUD	35	30%	35	30%
Site I	East Mallard Pond	RSM-PUD	54	No	54	No
Site J	North Ski Hill	RSM-PUD	7	30%	7	30%
Site K	North Black Lake	RSL-PUD	64	30%	64	30%
Site L	South Deer Hills	RMH-PUD	45	No	45	No
Site M		LI-PUD	0	-	0	0
<b>Added per 7th Amendment: Site E-2</b>	<b>The Mews**</b>	RCM-PUD			<b>110</b>	50%
<b>Added Per 7th Amendment: Site E-3</b>	<b>Waverly Gardens</b>	RCM-PUD				

Note: Changed from Site E to Site E-1, in 7th Amendment

Total Dwelling Units

645

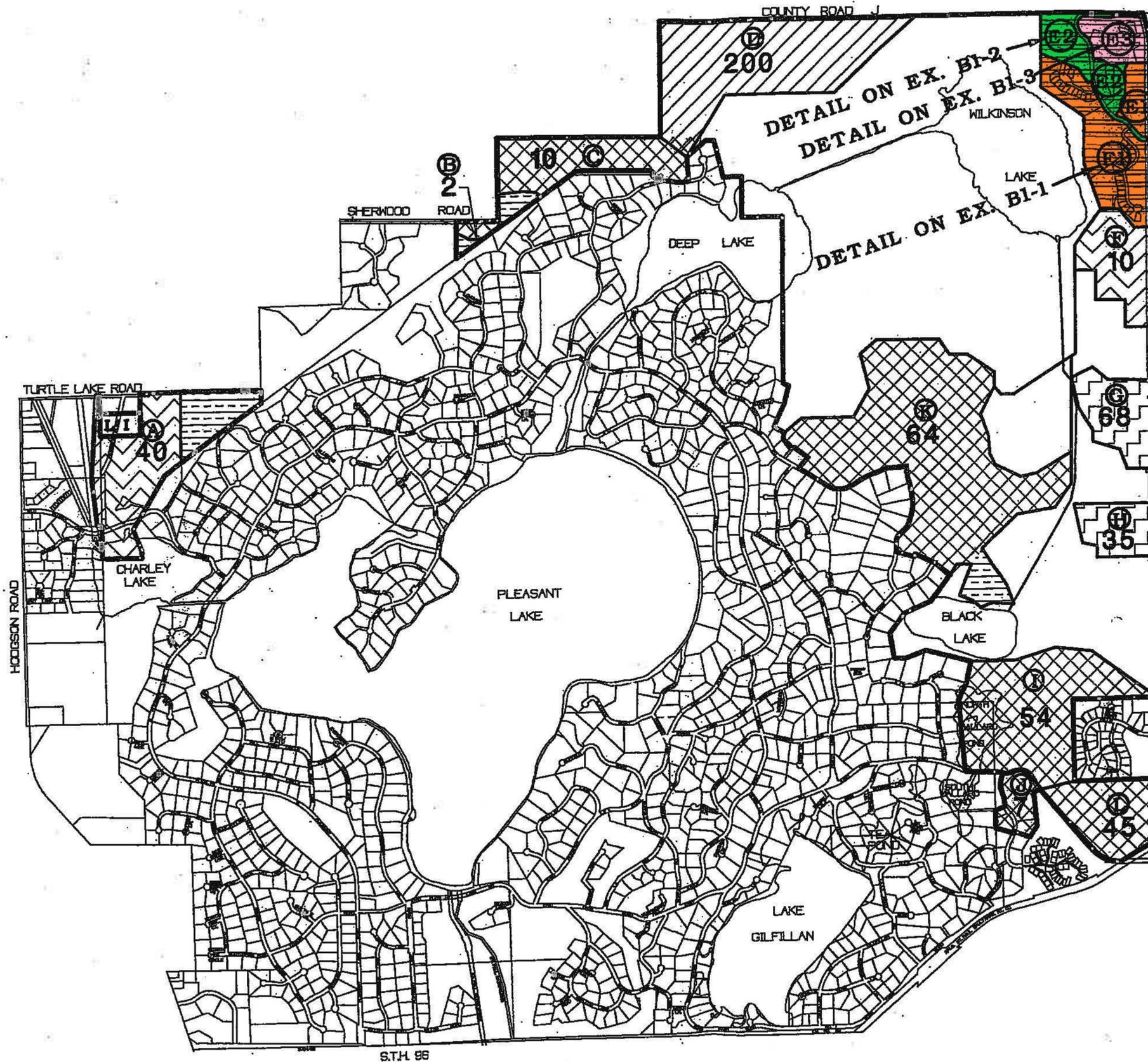
645

\*\*Per Appendix 1 (7th Amendment) the 110 units shown under E-1 and E-2 is a TOTAL of 110 dwelling units between the two sites, noting that "[u]nits can be allocated between sites E-1 and E-2 in any manner so long as the total does not exceed the total allowed."

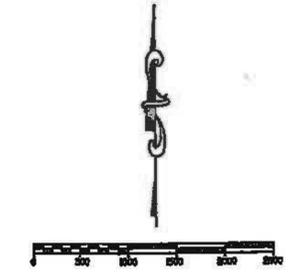
EAST OAKS PDA

Site	Name	1999 Zoning	1998 EAW Acreage	1999 Planned Number of Development Units	1998 EAW Proposed Units	1999 Density Increase Allowed	2010 Exhibit B-5.1 PDA Dwelling Units Designated	2010 Exhibit B-5.1 Actual Dwelling Units	2019 Actual Housing Counts (Dwelling Units Built)*	2019 Available Potential Density/ Density Shift, Not Including Density Bonuses	2019 Total Available Additional Dwelling Units Per Site if Available Density Increase Applied to Site**	2019 Commercial Acreage****	Dwelling Unit/Density Notes
Site A	Peterson Place (Wildflower)	RMM-PUD	82	40	40	30%	40	27	27	13	25		
Site B	East Preserve	RSM-PUD	6	2	2	30%	2	0	0	2	2.6		
Site C	Nord	RSM-PUD	51	10	10	30%	10	0	0	10	13		
Site D	Rapp Farm	RMH-PUD	110	200	200	50%	200	34	156	44	144		***
Site E	East Wilkinson	RCM-PUD	98	110	110	50%							
	Site E-1 (Villas of Wilkinson Lake)	RCM-PUD					45	19	47	-27	28		*****
	Site E-2 (The Mews)	RCM-PUD					65	90	90				*****
Site F	Andersonville (Anderson Woods)	RMH-PUD	35	10	10	30%	10	0	0	10	13		*****
Site G	Gate Hill	RCM-PUD	32	68	68	30%	68	0	0	68	88.4		
Site H	Island Field	RCM-PUD	22	35	35	30%	35	0	0	35	45.5		
Site I	East Mallard Pond (The Pines)	RSM-PUD	97	54	54	No	54	54	54	0	0		
Site J	North Ski Hill	RSM-PUD	13	7	7	30%	7	7	7	0	2.1		
Site K	North Black Lake (Red Forest Way)	RSL-PUD	194	64	64	30%	64	27	41	23	42.2		
Site L	South Deer Hills (Southeast Pines)	RMH-PUD	40	45	45	No	45	45	45	0	0		
Site M	-	LI-PUD		0	-								
Site E-3	East Wilkinson (Waverly Gardens and Tria)	RCM-PUD										15.27	
<b>TOTAL</b>	<b>Totals</b>		780	645	645		645	303	467	178		15.27	

# EAST OAKS PROJECT



- (A) AREA DESIGNATION
- 645 FUTURE HOUSEHOLDS
- MIXED USE
- PROTECTED LAND
- PASSIVE PRIVATE OPEN SPACE
- SINGLE FAMILY DETACHED
- LIMITED MIXED RESIDENTIAL
- MIXED RESIDENTIAL
- LIMITED MIXED USE
- DEVELOPMENT BOUNDARY
- LI LIGHT INDUSTRIAL



**EXHIBIT "B1"**  
**FUTURE LAND USE**  
**, 2010**

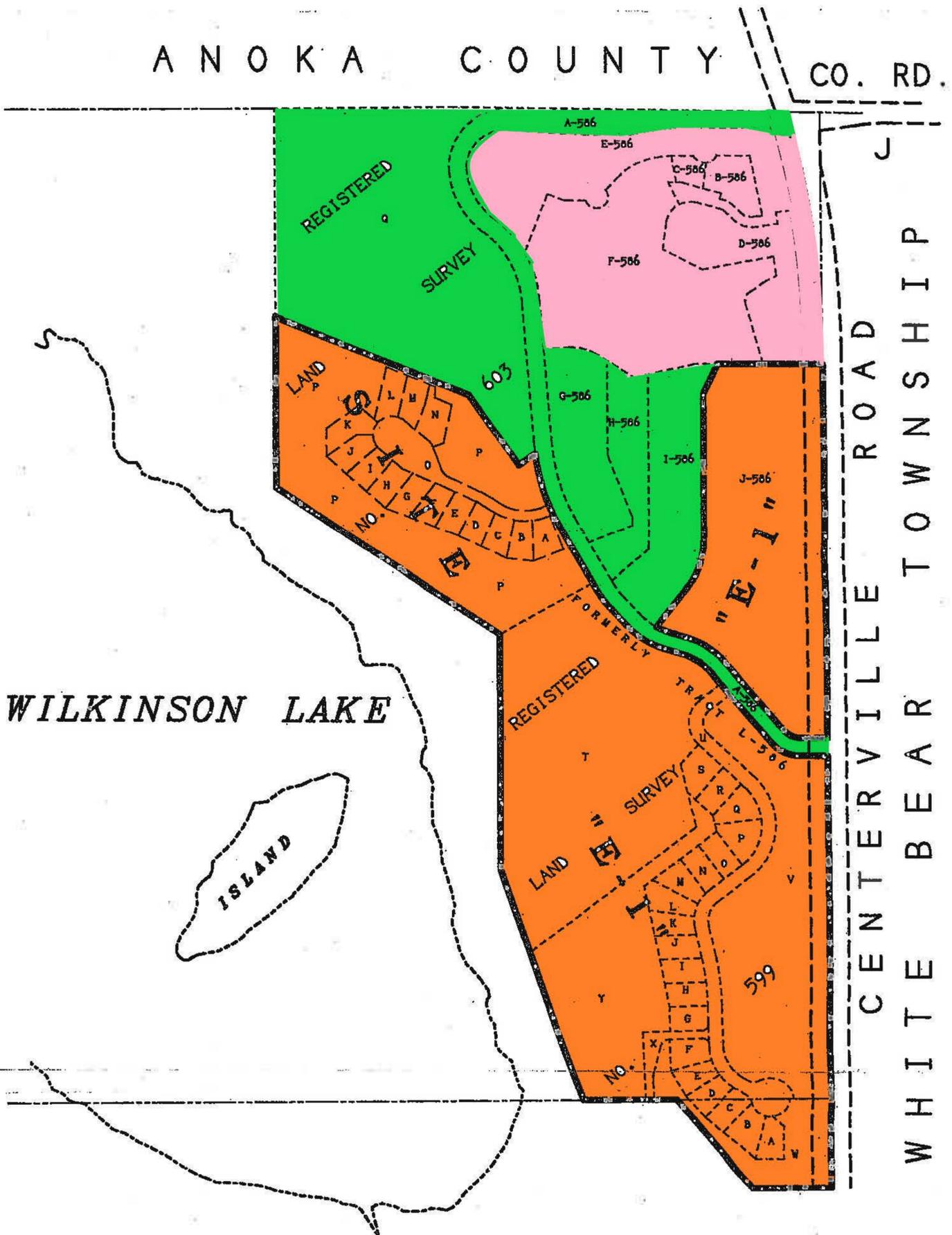
# THE GARDENS OF NORTH OAKS

## EXHIBIT "B-1.1"

, 2010

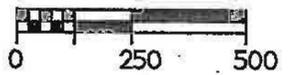
ANOKA COUNTY CO. RD.

CONSERVATION  
AREA



CONSERVATION  
AREA

WHITE BEAR TOWNSHIP  
ROAD



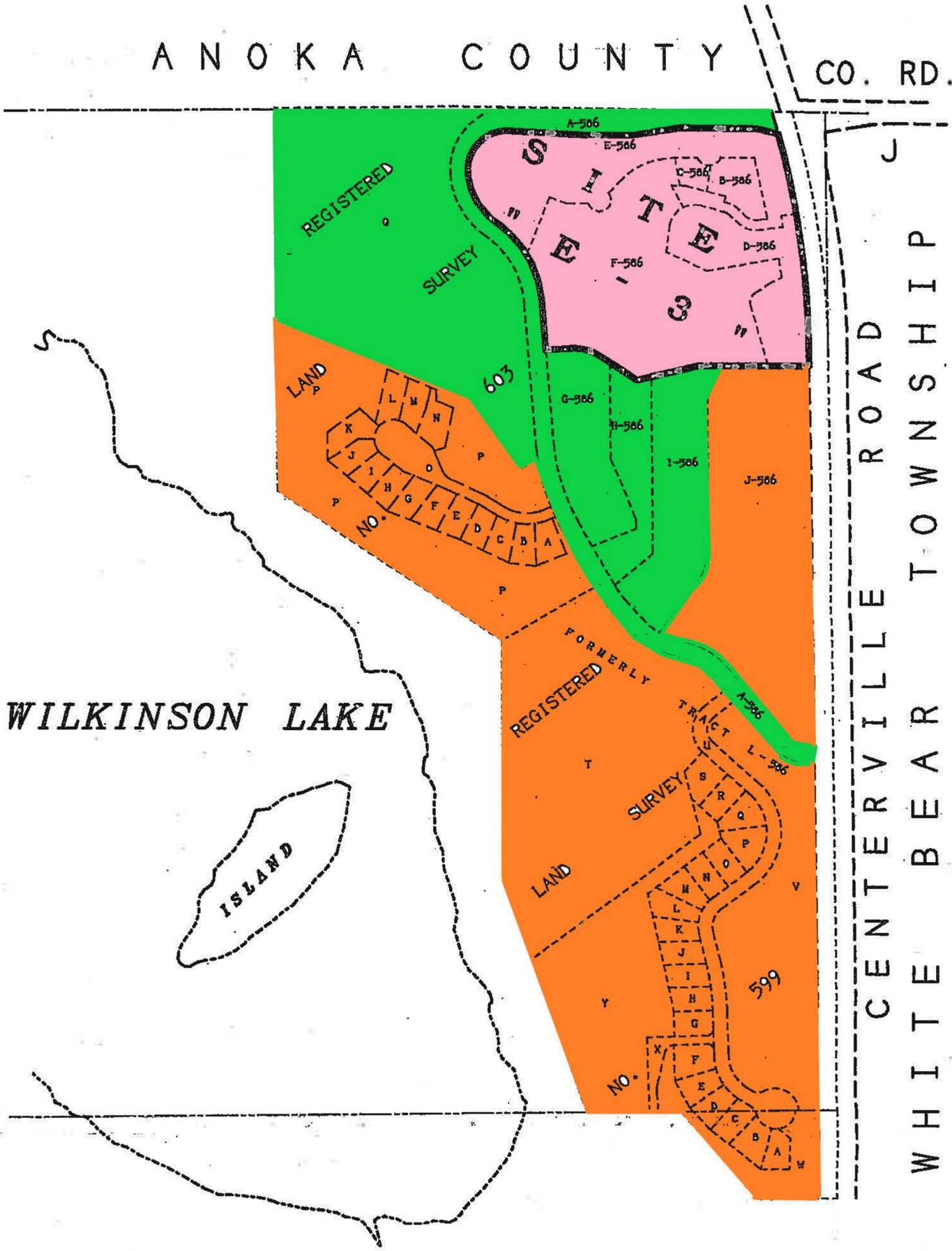


# THE GARDENS OF NORTH OAKS EXHIBIT "B-1.3"

, 2010

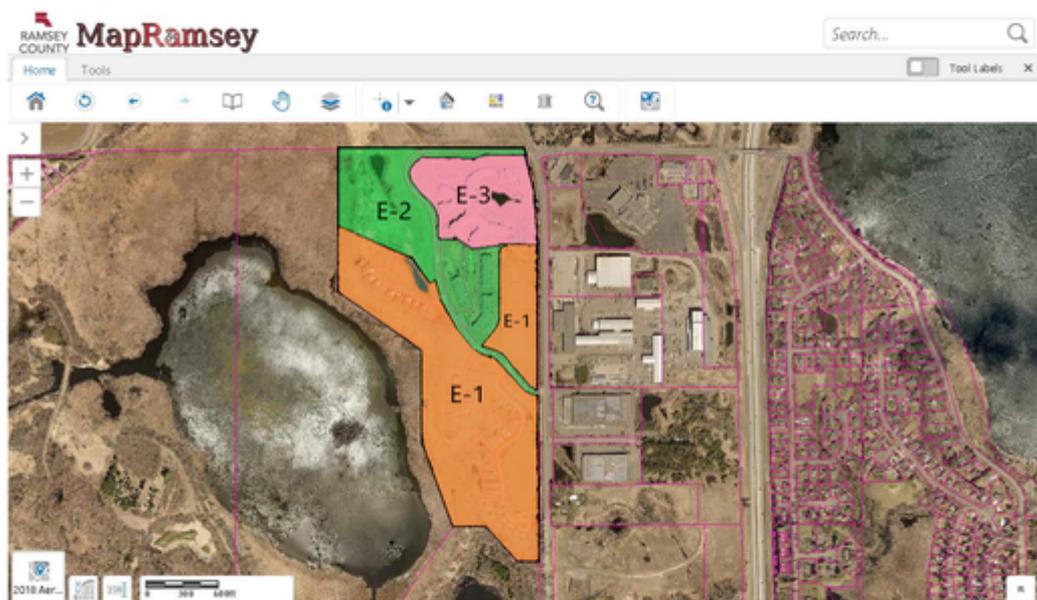
ANOKA COUNTY CO. RD.

CONSERVATION AREA



Total Developed Commercial Acreage = 15.27 Acres





**CITY OF NORTH OAKS  
REQUEST FOR COUNCIL ACTION**

<b>Requested Date of Council Consideration:</b> 1-9-2020 <b>Flexibility:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO	<b>Originating Department:</b> Administration
<b>Agenda Item: Unfinished Business: Item b.</b> <b>Discussion on Putting New Water Meters in Charley Lake Preserve and Red Pine Farms</b>	<b>Presenter: Kevin Kress, Administrator</b>
	<b>Estimated Time:</b> <input type="checkbox"/> Consent Agenda <input checked="" type="checkbox"/> 5 Min. <input type="checkbox"/> 15 Min. <input type="checkbox"/> 30 Min. <input type="checkbox"/> 45 Min. <input type="checkbox"/> 1 Hour
<b>Council Action Requested:</b> <input type="checkbox"/> Information/Review <input checked="" type="checkbox"/> Motion to approve... <input type="checkbox"/> Motion to deny... <input type="checkbox"/> Other <input type="checkbox"/> Budget Change	
<p><b>Background:</b> I reached out to the City of Shoreview regarding replacing water meters in both Charley Lake Preserve and Red Pine Farms. I figured out the meter sets located in Charley Lake Preserve and Red Pine Farms require approximately 7.5 gallons of flow to register with the meter. This means a homeowner could potentially flush a toilet 5+ times and it would not register with the meter. This explains why we had such a high percentage of unaccounted water making its way to the lift station. As predicted, the current meters are mechanical (disc) meters. I know that Badger (meter manufacturer) offers subsonic (laser read.) meters. New subsonic meters run about \$500-1000 per meter not including installation. We would have to shop out the installation and bill back the meter and the install to the homeowner(s). There is a total of 77 meters between the two developments.</p>	
<b>Staff Recommendation:</b>	
<p><b>Preferred Motion:</b>          Motion to authorize the City Administrator to purchase new meters and to obtain bids/quotes for installing the meters, chose the installer, and to invoice individual property owners for the cost of the new meter and install.</p>	
<p><b>Alternate Motion:</b>          Motion to authorize the City Administrator to obtain quotes for new meters and to obtain bids/quotes for installing the meters, and return back to Council for action.</p>	
<b>Supporting Documents:</b> <input type="checkbox"/> Attached <input type="checkbox"/> None	
<b>Department Head Signature/Date:</b>	
<b>Clerk/Treasurer Signature/Date:</b>	
<b>ACTION TAKEN</b> <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Tabled <input type="checkbox"/> Accepted Report <input type="checkbox"/> Other	

**Date of Action:** \_\_\_\_\_

**Comments:**

**Administrator's Signature/Date:**

\\COUNCIL\REQUEST FOR COUNCIL ACTION FORM.DOC



## Resolution 1370 Setting the Year 2020 Appointments/ City Responsibilities

### A RESOLUTION SETTING THE 2020 ANNUAL APPOINTMENTS

WHEREAS, the State of Minnesota requires that municipalities annually declare certain designations and appointments at its first meeting of the year;  
and

THEREFORE BE IT RESOLVED, that the Council of the City of North Oaks does hereby declare the following appointments and designations for the calendar year 2020:

Description	2020 Appointments	2020 Alternates
<b>Office of the Mayor (Gregg Nelson)</b>		
1. Acting Mayor	R. Kingston	N/A
2. Council Executive Committee	G. Nelson, R. Kingston, K. Kress & S. Marty (Finance related items)	N/A
<b>Planning and Zoning Services</b>		
3. Planning Commission Chair	M. Azman	
4. Planning Commission Members	J. Yoshimura-Rank, S Hauge, S. Shah, N. Sandell and J. Hara	N/A
5. Planning Commission member liaison from Council	The liaison position will be rotated each month alphabetically by last name *	The alternate shall be whomever is succeeding the member that cannot attend
6. Zoning Administrator	K. Kress	N/A
7. Code Enforcement Officer	K. White	K. Kress
8. I-35E Corridor Management	K. Kress	
9. Responsible Govt. Unit (Wetland Conservation Act)	VLAWMO	N/A
10. VLAWMO Board Representative	M. Long	K. Ries
Tech Committee	Bob Larson	M. Long

<b>Police Services</b>		
11. Police Liaison to Ramsey C. Sheriff s Dept.	R. Kingston	G. Nelson
12. Representatives, Sheriff s Contract Communities Committee	K. Kress	
<b>Fire Protection Services</b>		
13. LJVFS Relief Association Representative	K. Ries	K. Ross
14. Member, Lake Johanna Fire Dept. Board of Directors	K. Ross	K. Ries
<b>Communication and Public Information</b>		
15. North Suburban Cable Commission Representative	K. Ries	R. Kingston
16. NSCC Technical Advisory Committee Representative	M. Anderson	N/A
<b>Associations and Relationships</b>		
17. Council Liaison/Home Owners Associations (NOHOA & ASC)	R. Kingston	K. Kress
18. Ramsey Co. League of Local Governments Board of Directors	K. Ross	K. Ries
19. Ramsey Co. League of Local Governments	All	N/A
20. Responsible Authority (Data Practices)	K. Kress	S. Marty
<b>Commissions/Task Forces</b>		
21. Natural Resources Commission Chair	A. Hawkins	Kate Winsor
22. Natural Resources Commission Members	B. Larson, K. Winsor, D. White, D. McDermott, D. Lepoutre, A. Hawkins, M. Rehder	N/A
23. NRC City Council Representative	K. Ross	K. Ries
24. Wildlife Manager	G. Nelson	K. Kress
25. Tick Borne Disease Task Force	R. Kingston	M. Long
26. Tick Borne Disease Chair	Brooke Moore	R. Kingston

27. Recycling Task Force	K. Ross	K. Ries
28. NOHAAP	K. Ries	R. Kingston

Citations	2020
<b>Authorized to issue citations and cease and desist orders:</b>	K. White (Building Official) K. Kress (City Administrator) Animal Control Officers B. Nason (City Attorney) Deputy Mike Burrell, RCS
Contract Services	2020
1. City Civil Attorney	Bridget Nason, Levander, Gillen & Miller
2. City Prosecuting Attorney	Kelly and Lemmons
3. City Building Official	Kevin White
4. City Sanitary Inspector	Brian Humpal
5. City Cable TV Operator	Maureen Anderson
6. City Engineer	Larina Vosika Dewalt, Sambatek
7. City Forester	Mark Rehder, Rehder Forestry
8. City Planner	Bob Kirmis, Northwest Consultants
9. City Weed Inspector	G. Nelson, K. Kress (assistant)
10. City Police	Ramsey County Sheriff s Department
11. City Fire Protection	Lake Johanna Fire Department
12. Legal Newspaper	Shoreview Press and St. Paul Pioneer Press
13. City Auditor	Abdo, Eick & Meyers, LLP
14. City Emergency Management Director	Matt Sather, Lake Johanna Fire, K. Kress-alternate
15. City Official Depositories	4M Fund, US Bank Shoreview

Adopted by the City Council of the City of North Oaks this 9th day of January 2020.

By: \_\_\_\_\_

Gregg Nelson

Its: Mayor

Attested:

By: \_\_\_\_\_

Kevin Kress

Its:

City Administrator/City Clerk

**\*PC Assignments:**

Jan. - Kingston

Feb. - Long

March - Nelson

April - Ries

May - Ross

June - Kingston

July - Long

August - Nelson

Sept. - Ries

Oct. - Ross

Nov/Dec. - tbd



**RESOLUTION NO. 1371**

**CITY OF NORTH OAKS**

**AUTHORIZING THE EXECUTION OF ORDINARY AND CUSTOMARY CONTRACTS AND CITY DOCUMENTS BY ELECTRONIC SIGNATURE AND EXECUTION OF CHECKS AND OTHER ORDERS BY FACSIMILE OR ELECTRONIC SIGNATURE**

**WHEREAS**, Minn. Stat. § 412.221, subd. 2 allows City Councils to enter into contracts deemed necessary or desirable to make effective any power possessed by the council; and

**WHEREAS**, Minn. Stat. § 412.201 requires that every contract, conveyance, license or other written instrument shall be executed on behalf of the City by the Mayor and Clerk, with the corporate seal affixed, and only pursuant to authority from the Council; and

**WHEREAS**, Minn. Stat. § 325L.07 recognizes electronic signatures as legally enforceable; and

**WHEREAS**, The City Council finds it in the best interest of the efficient operation of the City to authorize the Mayor and City Clerk to use of electronic signatures to execute ordinary and customary contracts as well as other City documents requiring the signature of the Mayor and City Clerk and further finds that it is in the best interest of the efficient operation of the City to authorize the Mayor, Acting Mayor, City Clerk, and/or Deputy City Clerk/Treasurer to execute checks and other orders on deposit in a depository bank by facsimile or electronic signature.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of North Oaks, Ramsey County, Minnesota hereby authorizes the Mayor and City Clerk to execute ordinary and customary contracts and other City documents by electronic signature, and further approves the execution of checks, drafts, warrants, warrant-checks, vouchers, or other orders on deposit in a depository bank by facsimile or electronic signature of the Mayor, Acting Mayor, City Clerk and/or Deputy City Clerk/Treasurer.

This resolution was duly adopted by the City Council of the City of North Oaks this 9th day of January 2020.

By: \_\_\_\_\_  
Gregg Nelson  
Its: Mayor

Attested:

By: \_\_\_\_\_  
Kevin Kress  
Its: City Administrator/City Clerk



## **RESOLUTION NUMBER 1372**

### **CITY OF NORTH OAKS RAMSEY COUNTY, MN**

#### **RESOLUTION APPOINTING AND ESTABLISHING COMPENSATION FOR MEETING ATTENDANCE FOR PLANNING COMMISSION MEMBERS**

**WHEREAS**, the City of North Oaks Planning Commission is comprised of seven voting members with varying three-year terms as well as a non-voting Council liaison; and

**WHEREAS**, a vacancy on the Planning Commission occurred in September of 2019 as a result of member Nancy Reid submitting her resignation; and

**WHEREAS**, a subcommittee was formed to interview residents interested in becoming members of the Planning Commission to fill the vacancy and make a recommendation to the City Council; and

**WHEREAS**, the subcommittee interviewed several applicants for the vacant Planning Commission position and has recommended appointment of David Cremmons to the Planning Commission; and

**WHEREAS**, as of December 31, 2019, the term of existing Planning Commission member Jim Hara's term expired, and he has expressed interest in being reappointed for another 3-year term; and

**WHEREAS**, the term of each Planning Commission member is three (3) years, which shall commence on January 1 of the applicable first year and end on December 31 of the third year; and

**WHEREAS**, the City Council is authorized to appoint members of the Planning Commission and to establish compensation for Planning Commission members.

#### **NOW THERE, BE IT RESOLVED BY THE CITY COUNCIL OF NORTH OAKS, MINNESOTA, AS FOLLOWS:**

1. That the following individuals are appointed to serve on the North Oaks Planning Commission for terms commencing and terminating as follows:
  - a) David Cremons, term beginning January 1, 2020 and ending December 31, 2022.





- 
- b) Jim Hara, term beginning January 1, 2020 and ending December 31, 2022.
2. Planning Commissioner members shall be compensated \$30 per meeting attended unless they waive compensation.

This resolution was duly adopted by the City Council of the City of North Oaks this 9th day of January 2020.

APPROVED:

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Gregg Nelson, Mayor

ATTEST:

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Kevin Kress  
City Administrator



**CITY OF NORTH OAKS  
REQUEST FOR COUNCIL ACTION**

<b>Requested Date of Council Consideration:</b> 1-9-2020 <b>Flexibility:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO	<b>Originating Department:</b> Administration
<b>Agenda Item: New Business: Resolution 1372 Appointing Planning Commission Member</b>	<b>Presenter: Kevin Kress, Administrator</b>
	<b>Estimated Time:</b> <input type="checkbox"/> Consent Agenda <input checked="" type="checkbox"/> 5 Min. <input type="checkbox"/> 15 Min. <input type="checkbox"/> 30 Min. <input type="checkbox"/> 45 Min. <input type="checkbox"/> 1 Hour
<b>Council Action Requested:</b> <input type="checkbox"/> Information/Review <input checked="" type="checkbox"/> Motion to approve... <input type="checkbox"/> Motion to deny... <input type="checkbox"/> Other <input type="checkbox"/> Budget Change	
<b>Background: The City received five applicants for the vacant Planning Commission seat. To facilitate the process, I requested that Chair Azman, Mayor Nelson, and Councilmen Long be on the interview panel. I developed a series of questions that were asked of each applicant. Following the interviews, we discussed each candidate and ranked them accordingly. We all agreed that Mr. David Cremons was well qualified and would make a nice addition to the Planning Commission. Mr. Cremons is a retired business lawyer from Felhaber Larson law firm. Cremons practiced in the areas of mergers and acquisitions, development, leasing, construction, contracts and insurance.</b>	
<b>Staff Recommendation:</b>  <b>Motion to approve Resolution 1372 Appointing Planning Commission Member.</b>	
<b>Supporting Documents:</b> <input type="checkbox"/> Attached <input type="checkbox"/> None	
<b>Department Head Signature/Date:</b>	
<b>Clerk/Treasurer Signature/Date:</b>	
<b>ACTION TAKEN</b> <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Tabled <input type="checkbox"/> Accepted Report <input type="checkbox"/> Other	
<b>Date of Action:</b> _____	
<b>Comments:</b>	
<b>Administrator's Signature/Date:</b>	



**RESOLUTION NUMBER 1373**

**CITY OF NORTH OAKS  
RAMSEY COUNTY, MN**

**RESOLUTION ESTABLISHING A BOARD AND COMMISSION  
APPOINTMENT POLICY**

**WHEREAS, it is the Council’s desire to create and maintain A procedure for appointing and filling vacancies on various boards and commissions; and**

**WHEREAS, the Council has determined the most effective way to do so is to adopt a policy for appointing and filling vacancies for its boards and commissions; and**

**NOW THEREFORE BE IT RESOLVED, by the North Oaks City Council, that the following board and commission appointment policy attached is hereby adopted:**

This resolution was duly adopted by the City Council of the City of North Oaks this 9th day of January 2020.

APPROVED:

\_\_\_\_\_  
Gregg Nelson, Mayor

ATTEST:

\_\_\_\_\_  
Kevin Kress  
City Administrator



# CITY OF NORTH OAKS

## BOARD AND COMMISSION MEMBER APPOINTMENT POLICY

### **MEMBER APPLICATION PROCESS**

Individuals with a desire to serve on a board or commission shall first determine if they qualify to serve by meeting the membership requirements of the board or commission in which they are interested. If the condition of membership is met they shall complete an application, provided by the City, and submit it to the City Administrator within the noticed time frame allotted for accepting applications. Upon receipt, the City Administrator, shall forward the application on to the appropriate board or commission chair, who will contact the applicant and invite them to the next board or commission meeting to observe and familiarize themselves with the board or commission. The applicant(s) will then be interviewed by the Chair, Mayor, and City Administrator, or as assigned by the City Administrator. Following the interview, the board or commission chair shall prepare a memo with their recommendation that will be forwarded onto the City Council for consideration at the next available City Council meeting.

When a vacancy occurs on a board or commission, the City Administrator shall publicly notice the vacancy and terms for accepting applications.

For each vacancy the applicant is applying for, an application must be completed and submitted to the City Administrator within the noticed time frame allotted for accepting applications.

If a vacancy exists due to a member resigning prior to their term expiration, the applicant shall only be appointed to serve the remainder of that term.

If no vacancy exists the application(s) will be kept on file for two years. If during that time a vacancy occurs the applicant(s) will be notified and asked if they wish to still be considered for the appointment.

### **MEMBER REAPPOINTMENT PROCESS**

At least two months prior to a members term expiring the City shall inquire whether or not that member will be seeking reappointment for another term. Once the intent of the current member(s) is clear, the department head, or appropriate City representative shall prepare a memo to the City Council identifying which members are seeking reappointment and whether a vacancy will exist on the board/commission. The City Council will consider the reappointment(s) at the next applicable City Council meeting. At such meeting, the City Council shall give City staff direction on whether to advertise a vacancy on the board/commission.

### **BACKGROUND CHECKS**

All appointees to a committee/board will undergo a criminal background check with Ramsey County prior to beginning their term to assist in determining the candidate's suitability for the position.

### **ORIENTATION PROCESS**

New appointees will be provided with ordinances, bylaws, and any other applicable information which identifies the role and responsibilities of the position to which they have been appointed to. Staff and the Chair to the relevant Board or Commission will make themselves available to meet with new appointees to answer any questions they may have and assist in any way they can to ensure that the appointee is comfortable in their new role.



## RESOLUTION NUMBER 1374

### CITY OF NORTH OAKS RAMSEY COUNTY, MN

#### RESOLUTION ESTABLISHING A CODE OF CONDUCT FOR PUBLIC OFFICIALS IN THE CITY OF NORTH OAKS

**WHEREAS, it is the Council's desire to create and maintain ethical standards that guide Public Officials in the transaction of public business; and**

**WHEREAS, the Council has determined the most effective way to do so is to adopt and enforce a Code of Ethics that guides the conduct of Public Officials:**

**NOW THEREFORE BE IT RESOLVED, by the North Oaks City Council, that the following Code of Ethics attached is hereby adopted:**

This resolution was duly adopted by the City Council of the City of North Oaks this 9th day of January 2020.

APPROVED:

\_\_\_\_\_  
Gregg Nelson, Mayor

ATTEST:

\_\_\_\_\_  
Kevin Kress  
City Administrator



# CITY OF NORTH OAKS CODE OF CONDUCT

## 1. Purpose

The City Council of the City of North Oaks determines that a code of conduct for its members, as well as the members of the various boards and commissions of the City of North Oaks, is essential for the public affairs of the City. By eliminating conflicts of interest and providing standards for conduct in City matters, the City Council hopes to promote the faith and confidence of the citizens of North Oaks in their government and to encourage its citizens to serve on its Council and commissions.

## 2. Overview of Roles and Responsibilities

### ALL COUNCILMEMBERS

All members of the City Council, including the Mayor, have equal votes. No Councilmember has more power than any other Councilmember, and all should be treated with equal respect.

All Councilmembers should:

- Fully participate in City Council meetings and other duly advertised public meetings while demonstrating dignity, respect, consideration, and courtesy to all.
- Prepare in advance of meetings and be familiar with issues on the agenda. Address clarifications prior to meeting with applicable staff.
- Be respectful of other people's time. Stay focused and act efficiently during Council meetings or other City related meetings.
- Serve as a model of leadership and civility to the community.
- Inspire public confidence in the City of North Oaks' government.
- Demonstrate honesty and integrity in every action and statement.

### MAYOR

- Elected "at-large" for a two-year term
- Recognized as head of the City Government for all ceremonial purposes
- Preside over meetings of the City Council
- Has same speaking and voting rights as any other City Council member
- Executes and authenticates legal instruments requiring signature
- Leads the Council into an effective, cohesive working team

## 3. Compliance with Open Meeting Law, Conflict of Interest Prohibitions, and the Data Practices Act

No member of the City Council or a City board or commission may knowingly:

- a. Violate the open meeting law.
- b. Participate in a matter that constitutes a conflict of interest for the member.
- c. Use the person's public position to secure special privileges or exemptions for the person or for others.
- d. Use the person's public position to solicit personal gifts or favors.
- e. Use the person's public position for personal gain.
- f. Except as specifically permitted pursuant to Minn. Stat. 471.895, accept or receive any gift of substance, whether in the form of money, services, loan, travel, entertainment, hospitality, promise, or any other form, under circumstances in which it could be reasonably expected to influence the person, the person's performance of official action, or be intended as a reward for the person's official action.
- g. Disclose to the public, or use for the person's or another person's personal gain, information that was gained by reason of the person's public position if the information was not public data or was discussed at a closed session of the City Council.
- h. Disclose information that was received, discussed, or decided in conference with the City's legal counsel that is protected by the attorney-client privilege unless a majority of the City Council has authorized the disclosure.

Except as prohibited by the provisions of Minn. Stat Sec. 471.87, there is no violation of subdivision b. of this section for a matter that comes before the council, board, or commission if the member of the Council, board, or commission publicly discloses the circumstances that would violate these standards and refrains from participating in the discussion and vote on the matter. Nothing herein shall be construed to prohibit a contract with a member of the City Council under the circumstances described under Minn. Stat. Sec. 471.88, if proper statutory procedures are followed.

#### **4. Standards of Conduct**

Councils and commissions are composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve, protect and enhance the present and the future of the community. In all cases, this common goal should be acknowledged as the Council and commissions may "agree to disagree" on contentious issues.

### **COUNCIL AND COMMISSIONS' ROLE IN PUBLIC MEETINGS**

- a. **Practice civility, professionalism and decorum in discussions and debate** - Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, Councilmembers/commission members to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated. Councilmembers and commission members should conduct themselves in a professional manner at all times.

- b. **Honor the role of the Mayor/Chair in maintaining order** - It is the responsibility of the Mayor/Chair to keep the comments of all persons, including but not limited to, the Councilmembers and commission members on track during public meetings. Councilmembers and commission members should honor efforts by the Mayor/Chair to focus discussions on current agenda items. If there is disagreement about the agenda or the Mayor's/Chair's actions in refraining staff, public, councilmembers, or commission members from speaking, those objections should be voiced politely and with reason.
- c. **Avoid personal comments that could offend other Councilmembers/Commission members** - If a Councilmember/Commission member is personally offended by the remarks of another Councilmember/Commission member, the offended Councilmember/Commission member should make notes of the actual words used and call for a **"point of personal privilege"** that challenges the other Councilmember/Commission member to justify or apologize for the language used. The Mayor/Chair will maintain order of this discussion.
- d. **Demonstrate effective problem-solving approaches** – Councilmembers/Commission members have a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.
- e. **Be punctual and keep comments relative to topics discussed** – Councilmembers/Commission members have made a commitment to attend meetings and partake in discussions. Therefore, it is important that Councilmembers/Commission members be punctual and that meetings start on time. It is equally important that discussions on issues be relative to the topic at hand to allow adequate time to fully discuss scheduled issues. If a Councilmember/Commission member has an item requested to be on the agenda, it is important they set the example by providing timely written materials.

## CONDUCT IN PRIVATE ENCOUNTERS

- a. **Continue respectful behavior in private** - The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.
- b. **Be aware of the visibility of written notes, voice and text messages, and e-mail** - Technology allows words written or said without much forethought to be distributed wide and far. Data Practices Law mandates that any material made or received by an agency in connection with official business be used to perpetuate, communicate or formalize knowledge is a public record, and unless exempt, must be turned over to someone requesting to see that material. Before you create a document, ask yourself: Would you feel comfortable to have this note faxed or PDF'd to others? How would you feel if this voicemail message was played on a speaker phone in a full office? What would happen if this email message was forwarded to others? Written notes, voicemail messages and email related to City business are public communication subject to disclosure.
- c. **Even private conversations may have a public presence** - Elected officials and commission members are always on display – their actions, mannerisms, and language are monitored by

people around them that they may not know. Assume lunch table conversations will be eavesdropped upon, parking lot debates will be watched, and casual comments between individuals before and after public meetings noted.

## **COUNCIL AND COMMISSION CONDUCT WITH CITY STAFF**

Governance of a City relies on the cooperative efforts of elected officials, who set policy, and City staff members, who implement and administer the Council policies. Commission members serve as a conduit for citizen input, gathering, analyzing, and recommending options to the City Council, which is the final authority for making policy decisions. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

- a. **Treat all staff as professionals** - Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.
- b. **Limit contact to specific City staff** - Questions of City staff and/or requests for additional background information should be directed to the City Administrator. Materials supplied to a Councilmember/Commission member in response to a request will be made available to all members of the Council/Commission so that all have equal access to information.
- c. **Do not disrupt City staff from their jobs** – Staff wants to be accessible for City Council/Commissions, but Councilmembers/Commission members should avoid disrupting City staff while they are in meetings, on the phone, or engrossed in performing their job functions.
- d. **Never publicly criticize an individual employee** – Council/Commissions should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee’s manager. Comments about staff performance should only be made to the City Administrator.
- e. **Do not get involved in administrative functions** – Councilmembers/Commission members must not attempt to influence City Staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.
- f. **Check with City staff on correspondence before taking action** - Before sending correspondence, Councilmembers/Commission members should check with City staff to see if an official City response has already been sent or is in progress.
- g. **Do not solicit political support from staff** – Councilmembers/Commission members should not solicit any type of political support (financial contributions, display of poster or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with

constitutional rights, support political candidates but all such activities must be done away from the workplace.

## **COUNCIL/COMMISSION CONDUCT WITH THE PUBLIC**

### **—IN PUBLIC MEETINGS**

Making the public feel welcome is an important part of the democratic process. No signs of partiality prejudice or disrespect should be evident on the part of individual Councilmembers/Commission members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

- a. Be welcoming to speakers and treat them with care and gentleness** - Speaking in front of Council/Commission can be a difficult experience for some people. Some issues the Council/Commission undertakes may affect people's daily lives and homes. Some decisions are emotional. The way that Council/Commission treats people during public hearings can do a lot to make them relax or to push their emotions to a higher level of intensity.
- b. Be fair and equitable in allocating public hearing time to individual speakers** - The Mayor/Chair will determine and announce limits on speakers at the start of the public hearing process. Generally, each speaker will be allocated three minutes with applicants and appellants or their designated representatives allowed more time. If many speakers are anticipated, the Mayor/Chair may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers. No speaker will be turned away unless he or she exhibits inappropriate behavior. Each speaker may only speak once during the public comment unless the Council/Commission requests additional clarification. After the close of any public comment portion, no more public testimony will be accepted unless the Mayor/Chair reopens the public hearing for a limited and specific purpose.
- c. Practice active listening** - It is disconcerting to speakers to have Councilmembers/Commission members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time, gazing around the room or getting up from your seat gives the appearance of disinterest. Be aware of facial expressions and body language (e.g., head and arm movements), especially those that could be interpreted as "smirking," disbelief, anger or boredom.
- d. Ask for clarification, but avoid debate and argument with the public** - Only the Mayor/Chair—not individual Councilmembers/Commission members—can interrupt a speaker during a presentation. However, a Councilmember/Commission member can ask the Mayor/Chair for a "**point of order**" if the speaker is off the topic or exhibiting behavior or language the Councilmember/Commission member finds disturbing. If speakers become flustered or defensive, it is the responsibility of the Mayor/Chair to calm and focus the speaker and to maintain the order and decorum of the meeting. Questions by Councilmembers/Commission members to members of the public testifying should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker.

**e. No personal attacks of any kind, under any circumstance!**

**f. Follow parliamentary procedure in conducting public meetings** - The City Attorney serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. Final rulings on parliamentary procedure are made by the Mayor/Chair, subject to the appeal of the full Council/Commission.

#### **—IN UNOFFICIAL SETTINGS**

**a. Make no promise on behalf of the Council/Commission** – Councilmembers/Commission members will frequently be asked to explain a Council/Commission action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of City policy and to refer to City staff for further information. It is inappropriate to overtly or implicitly promise Council/Commission action, or to promise City staff will do something specific (fix a pothole, allow certain zoning, grant a variance, etc.).

**b. Make no personal comments about other Councilmembers/Commission members** - It is acceptable to disagree publicly about an issue, but it is unacceptable to make derogatory comments about other Councilmembers/Commission members, their opinions and actions.

#### **COUNCIL/COMMISSION CONDUCT WITH OTHER PUBLIC AGENCIES**

**a. Be clear about representing the City or personal interests** - If a Councilmember/Commission member appears before another governmental agency or organization to give a statement on an issue, the Councilmember/Commission member must clearly state:

(i) if his or her statement reflects personal opinion or is the official stance of the City;

(ii) whether this is the majority or minority opinion of the Council/Commission.

Even if the Councilmember/Commission member is representing his or her own personal opinions, remember that this still may reflect upon the City as an organization.

(iii) If the Councilmember/Commission member is representing the City, the Councilmember/Commission member must support and advocate the official City position on an issue, not a personal viewpoint.

(iv) If the Council member/Commission member is representing another organization whose position is different from the City, the Councilmember/Commission member should withdraw from voting on the issue if it significantly impacts or is detrimental to the City's interest. Councilmembers/Commission members should be clear about which organizations they represent and inform the Mayor/Chair and Council/Commission of their involvement.

#### **COUNCIL CONDUCT WITH ADVISORY BOARDS**

The City has established several advisory boards as a means of gathering more community input. Citizens who serve on advisory boards become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

**a. If attending an advisory board meeting (NRC, Planning/Zoning, etc.) and you are not the liaison, be careful to only express personal opinions** - Councilmembers may attend any advisory board meeting, which are always open to any member of the public. However, if the advisory board is conducting a public hearing, the Councilmember shall refrain from attending. Councilmembers should be sensitive to the way their participation could be viewed as unfairly affecting the process. Any public comments by a Councilmember at an advisory board meeting should be clearly made as individual opinion and not a representation of the feelings of the entire City Council. Also be cognizant of the Open Meeting Law, precluding discussion (outside of a noticed meeting of the City Council) by three or more members of City Council on any item that may take action upon. A Councilmember's presence may affect the conduct of the advisory boards and limit their role and function.

**b. Limit contact with advisory boards members** - It is inappropriate, and at times illegal, for a Councilmember to contact an advisory board member to lobby on behalf of an individual, business, or developer. Councilmembers should contact staff in order to clarify a position taken by the advisory boards.

**c. Remember that advisory boards serve City Council, not individual Councilmembers** - City Council appoints individuals to serve on advisory boards, and it is the responsibility of advisory boards to follow policy established by the Council. But advisory board members do not report to individual Councilmembers, nor should Councilmembers feel they have the power or right to threaten advisory board members with removal if they disagree about an issue. Appointment and re-appointment to an advisory boards should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. An advisory board's appointment should not be used as a political "reward."

**d. Be respectful of diverse opinions** - A primary role of advisory boards is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Councilmembers must be fair and respectful of any citizens serving on advisory boards.

**e. Keep election issues away from public forums and advisory board meetings** - While Councilmembers are free to participate in politics when not conducting official business, they should refrain from campaigning for office or providing political support or non-support for those who are running for any elected office (national, state or local) while conducting official duties or when attending advisory meetings.

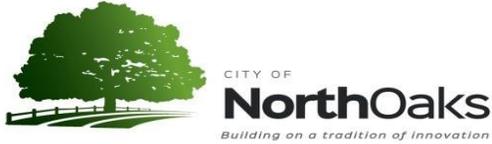
## **5. Complaint Hearing**

Any person may file a written complaint with the City Administrator alleging a violation of the standards of conduct found in Section 3. The complaint must contain supporting facts for the

allegation. The City Council may hold a hearing after receiving the written complaint or upon the Council's own volition.

If the Council determines that there is an adequate justification for holding a hearing, the hearing must be held within 30 days of the City Council's determination. At the hearing, the person accused must have the opportunity to be heard. If after the hearing, the Council finds that a violation of a standard has occurred or does exist, the Council may censure the person, refer the matter for criminal prosecution, request an official not to participate in a decision, or remove an appointed member of an advisory board or commission in compliance with City Code and any applicable statutory processes for removal.

Adopted by the City Council on \_\_\_\_\_ by resolution number \_\_\_\_\_.



CITY OF NORTH OAKS  
 RAMSEY COUNTY, MINNESOTA  
 ORDINANCE NO. 134

AN ORDINANCE AMENDING CITY CODE TITLE IX, GENERAL REGULATIONS REGARDING THE 2020 FEE  
 SCHEDULE FOR THE CITY OF NORTH OAKS

THE CITY COUNCIL OF THE CITY OF NORTH OAKS ORDAINS AS FOLLOWS:

**Section One.** Title IX, General Regulations of the North Oaks City Code is hereby amended as follows.

City of North Oaks  
 Ordinance 134 2020 Fee Schedule

<b>I. Administrative</b>		
Dogs/Cats Licenses	For length of rabies certificate	\$15.00
Copying General City Material		\$0.25 per 8 ½ x 11 page; \$0.50 large. Add postage if mailing.
Color Maps (8.5 x 11)		\$2.00
Color Maps (11 x 17)		\$4.00
Street Maps		\$2.00
As-Builts (11 x 17)		Based on number of copies and staff time

Room Rental City Hall, Community Room	North Oaks community groups may use the room free of charge.	\$75 half day, \$100 full day
Room Rental City Hall, Small Conference Room		\$75 half day, \$100 full day
Damage/Lost Key Fee	Users are responsible for returning the room to the condition they found it in or there will be fee of \$100 charged. If a key is lost or not returned to City Hall within 2 days of the rental date of the room, a fee of \$100 will be charged.	\$100
Duplicate Meeting DVDs	A copy of videotaped City Council or Planning Commission meetings	\$35
Notary Fee		No charge
<b>II. Building Construction</b>		
Building Permits		Fees based on valuation of project.
License Verification	Per permit	\$5.00
State Surcharge Based on Valuation		Fee based on 2018 State Statute 326B.148
State Surcharge Fixed Fees		Fee based on State Statute 326B.148
Contractor License: General	License good through December 31 of current calendar year.	\$40

Contractor License: Mechanical	License good through December 31 of current calendar year.	\$40
Contractor License: Outside Sewer/Water	License good through December 31 of current calendar year.	\$100
Plumbing Permits		Refer to permit
Electrical Permits		Refer to permit
Mechanical Permits		Refer to permit
Fire Protection Permits		Fees shall be based according to State Statute 326B.153 and are determined by the City s Building Official
<b>III. Liquor and Tobacco Licensing</b>		
On-Sale Liquor License	License good for one year	\$1,250.00
On-Sale Club Liquor License	License good for one year	\$650.00
On-Sale Wine Only License	License good for one year	\$250.00
Off-Sale Liquor License	License good for one year	\$100.00
Minor Consumption Violation with Server Training	First Violation	\$105.00
	Second Violation	\$525.00
	Third Violation	\$1,050.00
	Fourth Violation	\$1,575.00
Minor Consumption Violation without Server Training	First Violation	\$525.00
	Second Violation	\$1,050.00
	Third Violation	\$1,575.00
	Fourth Violation	\$2,100.00 and may be subject to license revocation
Tobacco License	License good for one year	\$200

**IV. Planning and Zoning** (Each separate land use request shall be charged a separate administrative fee and escrow even if submitted on the same application. Costs expended in reviewing and processing an application will be charged against the cash escrow and credited to the City. Charges to the escrow include planning and engineering staff time, City attorney and consulting fees, and mailing costs. If, at any time, a required cash escrow is depleted to less than 20% of its original amount, the applicant shall deposit additional funds in the cash escrow account as determined by the City. The escrow may be reduced or increased by the City Planner on a project by project basis.)

<b>Description:</b>	<b>Escrow Fees:</b>	<b>Initial Application Fees:</b>
Preliminary Plat	Administrative Fee	\$450
	Escrow	\$1,000
Final Plat	Administrative Fee	\$450 + \$25 per each new lot created
	Escrow	\$1,000
Lot Split/Minor Subdivision	Administrative Fee	\$450
	Escrow	\$1,000
Rezoning or Comprehensive Plan Amendment	Administrative Fee	\$350
	Escrow	\$1,000
Variance Adjustment	Administrative Fee	\$450
	Escrow	\$1,000
Conditional Use Permit	Administrative Fee	\$450
	Escrow	\$1,000
Planned Unit Development Master Plan or Special Development Plan Master Plan	Administrative Fee	\$450
	Escrow	\$1,000
Final Planned Unit Development or Final Special Development Plan	Administrative Fee	\$450
	Escrow	\$1,000
Planned Unit Development Amendment or Special Development Plan Amendment	Administrative Fee	\$450
	Escrow	\$1,000
Concept Review	Administrative Fee	\$150
	Escrow	\$1,000
Site Plan Review	Administrative Fee	\$450

	Escrow	\$1,000
City Code Amendment	Administrative Fee	\$450
	Escrow	\$1,000
Zoning Code Amendment	Administrative Fee	\$450
	Escrow	\$1,000
Land Use Requests Not Already Specified	Administrative Fee	\$150
	Escrow	\$1,000
Appeal of Administrative Zoning, Sign, or Subdivision Decisions	Administrative Fee	\$150
	Escrow	\$1,000
<b>V. Public Works/Engineering</b>		
Grading & Erosion Control Permit	Administrative Fee	\$300
	Escrow	\$1,000 / acre
<b>VI. Water, Sewer, and Septic Charges</b>		
<b>Water: Residential (White Bear Township)</b>		
Water Permits Hook-Up Fees		\$4,450.00 per household
Water Meter/Spacer Charges		Based on meter size: Contact City Staff for quote
<b>Water: Residential (Shoreview)</b>		
Water Permits Hook-Up Fees		\$3,790.00 per household
Water Availability Charge		31.25 per unit
Water Usage Charge:	Tier 1 - 5,000 gallons of water per unit	\$2.10 per 1,000 gallons
	Tier 2 - 5,000 gallons of water per unit	\$3.35 per 1,000 gallons
	Tier 3 - 20,000 gallons of water per unit	\$4.65 per 1,000 gallons

	Tier 4 - All remaining water	\$7.64 per 1,000 gallons
Water Meter/Spacer Charges		Based on meter size: Contact City Staff for quote
<b>Water: Commercial (Shoreview)</b>		
Water Availability Charge		\$31.25 per unit
Water Usage Charge:	Tier 1 - first 50,000 gallons of water	\$3.35 per 1,000 gallons
	Tier 2 - Next 1,150,000 gallons of water	\$4.64 per 1,000 gallons
	Tier 3 - All remaining water	\$7.64 per 1,000 gallons
<b>Sewer</b>		
Sewer Access Charge	Set by Met Council Annually	\$2,485.00
<b>Septic</b>		
ISTS Pumping Report	Submitted by Septic Pumper	\$20
ISTS Install Application		\$450
ISTS Performance System (Type IV)		\$795
<b>VII. Miscellaneous/Retail Activities</b>		
Charitable Gambling Permit Per Minnesota State Statute, Chapter 349		No charge + letter
Massage Therapy License	License good for one year	\$50
<b>VIII. Rental Licenses</b>		
Rental License	License good for one year	\$100
<b>IX. Arborist/Forestry and Shoreland Permits and Licenses</b>		
Arborist License	License good for one year	\$100
Emerald Ash Borer Inspection		\$75 per lot
Forestry Permit Shoreland		\$100

Forestry Residential Lot Evaluation		\$75 per lot
Shoreland Permit		\$350
<b>X. Signs</b>		
Initial Fee	Per Sign	\$50.00
<b>XI. Miscellaneous Fees/Permits</b>		
Staff Research		\$53.00 per half hour
Tobacco Sales, Illegal	First Offense	\$150.00
Tobacco Sales, Illegal	Second Offense within 24 months	\$600.00
Tobacco Sales, Illegal	Third Offense within 24 months	\$1,050.00 and 7 business day suspension or 30 day suspension of license + admin fine of \$250
Tobacco Sales, Illegal	Fourth Offense within 24 months	Revocation of the license for a one year period
Candidate Filing Fee		\$2.00
Insufficient Funds/Returned Check Fee		\$35.00
Penalties for Late Payment	Failure to pay any penalty imposed shall be grounds for the suspension or termination of	10% of license fee or \$32.00, whichever is greater
<b>XII. False Alarm Fees</b>		
False Alarm	First three alarms	No charge + letter
False Alarm	Fourth alarm	\$150.00 per alarm
False Alarm	Fifth and each thereafter	\$175.00 per alarm
<b>XIII. Recycling Fee</b>		
Per Residential Parcel	Annual	\$151.60

**Section Two. Effective Date.** This Ordinance shall be in full force and effect upon its adoption and publication as provided by law.

Passed in regular session of the City Council on the 9th day of January, 2020.

**CITY OF NORTH OAKS**

By: \_\_\_\_\_  
Gregg Nelson  
Its: Mayor

Attested:

By: \_\_\_\_\_  
Kevin Kress  
Its: City Administrator/City Clerk

(Published in the \_\_\_\_\_ on \_\_\_\_\_, 2020)



January 2, 2020

Kevin Kress, City Administrator  
City of North Oaks  
100 Village Center Drive  
Suite 230  
North Oaks, MN 55127

SUBJECT: City of North Oaks  
Comprehensive Utility Plan Update  
Fee Estimate

Dear Mr. Kress:

We are pleased to present the following fee estimate for professional services. In response to your request, we have prepared an estimated fee proposal for an update to the City's Comprehensive Utility Plan. As you know, Sambatek prepared the previous Utility Plan update in 2015, creating all the necessary spreadsheets, cost estimates and valuations from the ground up. These records will be the basis of our update to the plan. Our municipal team, poised to begin work on the project, includes original staff who led completion of the 2015 update. We are confident that we can efficiently prepare a detailed deliverable that will assist the City in achieving the goal of refining its fee schedule and support informed decision-making regarding North Oaks community infrastructure. The following page provides a brief outline of scope with an estimated fee.

Please don't hesitate to reach out with any questions.

Sincerely,  
Sambatek, Inc.



Larina Vosika DeWalt, PE, PMP

Enc: 2020 Municipal Rate Sheet

## SCOPE OF SERVICES

### 1. Update to Comprehensive Utility Plan

- ◆ Update to 2015 plan to include:
  - Update to previously existing utility infrastructure system tables (28).
  - Addition of 2 development systems built since 2015 plan preparation, including all applicable data and tables.
  - Update to system evaluation.
  - One meeting to review draft.
  - One subsequent revision.
  - Delivery of final update.
- ◆ Any additional service requests or revisions will be billed hourly at our standard rates.

## COMPENSATION FOR SERVICES

Compensation for the services noted above will be on an hourly basis according to the attached fee schedule. For budgeting purposes, an estimate for our services follows:

1.	Update to Comprehensive Utility Plan	\$8,900
	<b>Total Estimated Fees</b>	<b>\$8,900</b>

We appreciate this opportunity to provide our professional services related to the Comprehensive Utility Plan Update. With our commitment to service, quality and client advocacy, we look forward to continuing to foster our successful relationship built on over 30 years of partnership.

Director	\$205.00
Client Service Manager	\$180.00
Senior Project Manager	\$172.00
Project Manager	\$154.00
Engineer V	\$205.00
Engineer IV	\$163.00
Engineer III	\$135.00
Engineer II	\$121.00
Engineer I	\$112.00
Planner IV	\$143.00
Planner III	\$124.00
Planner II	\$114.00
Planner I	\$105.00
Landscape Architect IV	\$146.00
Landscape Architect III	\$128.00
Landscape Architect II	\$118.00
Landscape Architect I	\$108.00
Survey Manager	\$137.00
Surveyor III	\$128.00
Surveyor II	\$123.00
Surveyor I	\$118.00
Environmental Scientist IV	\$132.00
Environmental Scientist III	\$127.00
Environmental Scientist II	\$123.00
Environmental Scientist I	\$109.00
CAD Tech IV	\$128.00
CAD Tech III	\$122.00
CAD Tech II	\$118.00
CAD Tech I	\$113.00
Field Crew Supervisor	\$132.00
Field Tech IV	\$127.00
Field Tech III	\$123.00
Field Tech II	\$119.00
Field Tech I	\$108.00
Field Tech Intern	\$65.00
Administration	\$85.00
One-Person Survey Crew	\$125.00
Instrument Tech	\$96.00
Special Equipment	Cost + 10%
Reimbursables	Cost + 10%
Mileage	IRS Rate

\*\* Subject to Change

**Natural Resources Commission Minutes**  
**October 17, 2019**  
**7 P.M.**

**Call to Order:**

Chair Bob Larson called the meeting to order at 7:00 p.m.

**Roll Call:**

Present: Chair Bob Larson, Vice Chair Kate Winsor, Commissioners Andrew Hawkins, Damien LePoutre, Dan McDermott, David White, NOHOA Liaison Diane Gorder, and City Council Liaison Mayor Gregg Nelson

Staff: Recording Secretary Gretchen Needham

Absent: City Administrator Mike Robertson

**Approval of Agenda:**

**Vice Chair Winsor moved to approve the agenda, which was seconded by Commissioner White. The motion was approved unanimously.**

**Approval of Minutes:**

Liaison Gorder and Commissioner White pointed out clerical errors from the August minutes.

**Vice Chair Winsor moved to approve the amended August 15, 2019 minutes, which was seconded by Commissioner Hawkins. The motion was approved unanimously.**

**New Business:**

**Discussion of Coyote Management Plan**

City Staff proposed adopting a coyote management plan, and asked the NRC for their feedback. NRC asked that City Staff work on a draft to show the NRC for next month. The coyote experts that gave the April 2019 workshop will also be asked to review and give their feedback for the proposed policy. Chair Larson recommended that the policy mention reducing food sources for coyotes.

**Commissioner McDermott made a motion, which was seconded by Commissioner LePoutre, to have City Staff draft a Coyote Management Plan and run it by the coyote experts who ran the workshop in April 2019 for review by the NRC at their next meeting. The motion was approved unanimously.**

**Update on Oriental Bittersweet Removal**

Woodland Restorations submitted a bid to the City to remove oriental bittersweet. Removal costs vary from \$12,400 to \$500 per property. The grant given to the City is for \$2,700. Liaison Gorder mentioned that it is convenient to treat and both oriental bittersweet and buckthorn at the same time. Now is the best time of year to treat and remove both invasive species.

**Discussion of Open Meeting Law**

The NRC is subject to the open meeting law. They cannot discuss business of the commission as a quorum outside of the open meetings.

**Update on the Septic Ordinance discussion**

Mayor Nelson summarized the discussion at the last City Council meeting, which included creation of a subcommittee to investigate and research how to amend the septic ordinance to possibly include a point of sale contingency. Commissioner Hawkins offered to be a liaison on the Council's subcommittee; he will reach out to Councilmember Ries, who is chairing the subcommittee.

**A motion was made by Mayor Nelson, which was seconded by Vice Chair Winsor, for Commissioner Hawkins to contact Chair Ries about his offer to join the septic subcommittee. The motion was approved unanimously.**

**Tick Task Force Report**

Commissioner White stated that the TTF meeting on Tuesday, October 15 focused on the TTF Survey results being down in numbers. TTF would like to get the word out through advertising and education to encourage residents to fill out the survey. Vice Chair Winsor suggested that community events would be a good place to get surveys done; there could be a laptop at the event and people can fill out a survey then and there for a small incentive.

There was also a discussion at the TTF meeting about how to capture real results if there are multiple cases within a home because the survey is one per household.

**Kate Winsor's Report**

Vice Chair Winsor submitted an article about landscape best practices for the November issue of the North Oaks News.

**City Update**

Mayor Nelson reported that 35 applicants applied for the open City Administrator position, which was narrowed down to four candidates to interview, and of those four candidates, all in the Council subcommittee agreed on one candidate, Kevin Kress. The contract was negotiated by Mayor Nelson and was finalized and approved by the City Council at a special meeting on Tuesday, October 15. Mr. Kress is slated to start on December 2 as the City's Administrator.

**NOHOA/NEST Update**

- Liaison Gorder mentioned the NOHOA conditional use permit (CUP) for treatment and removal of ash trees and invasive species and noxious weeds was approved at the latest City Council meeting.
- There will be a hands-on buckthorn removal event on Friday, October 18 and Saturday, October 19 at the North Oaks Golf Club.
- On November 6, Carp Solutions will give a presentation about their carp study.
- There is a NOHOA community Survey that is open through the end of the month.
- Vice Chair Winsor complimented NEST on their recent educational events, and Liaison Gorder suggested spring and fall events that could be jointly hosted by NRC and NEST.

**Other Business**

- The Conservation Award was applied for; City Staff will follow up with the homeowner and report back to the NRC.
- Vice Chair Winsor attended the VLAWMO technical committee meeting. City Staff will forward the VLAWMO plan to the NRC when they get it.
- Deer management was brought up by Commissioner LePoutre. He suggested that the NRC be involved in the process to help look into varying approach to deer management. This might include in some years there are deer removed, other years may be an aerial studies or counts.

**Adjournment:**

Commissioner White made a motion to adjourn. Commissioner McDermott seconded. The motion was approved unanimously. The meeting ended at 8:13 p.m.

**Next Meeting: November 21, 2019**

**CITY OF NORTH OAKS**  
**REQUEST FOR COUNCIL ACTION**

<b>Requested Date of Council Consideration:</b> 1-9-2020 <b>Flexibility:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<b>Originating Department:</b> ADMINISTRATION
<b>Agenda Item: ADMINISTRATOR STAFF REPORTS</b>	<b>Presenter: KEVIN KRESS</b>
<b>Estimated Time:</b> <input type="checkbox"/> Consent Agenda <input checked="" type="checkbox"/> 5 Min. <input type="checkbox"/> 15 Min. <input type="checkbox"/> 30 Min. <input type="checkbox"/> 45 Min. <input type="checkbox"/> 1 Hour	
<b>Council Action Requested:</b> <input checked="" type="checkbox"/> Information/Review <input type="checkbox"/> Motion to approve... <input type="checkbox"/> Motion to deny... <input type="checkbox"/> Other <input type="checkbox"/> Budget Change	
<b>Background:</b> <u>City Hall</u> I requested proposals for conducting a utility rate study from our auditing firm. I also requested a proposal to update our utility master plan from our engineering firm as seen in tonight's agenda. I plan on getting additional proposals to conduct a compensation study.  I need feedback on if Council is interested in purchasing a TV for the conference room upstairs. Specifically, if you want bids/quotes or want staff to go ahead and make the purchase/improvement.	
<u>LMC Legislative Conference</u> The League of Minnesota Cities Legislative conference is taking place on Thursday, March 19 <sup>th</sup> . I plan on attending the conference and suggest a member or two of the Council attend if you are available.	
<b>Supporting Documents:</b> <input type="checkbox"/> Attached <input type="checkbox"/> None	
<b>Department Head Signature/Date:</b>	
<b>Administrator Signature/Date:</b>	
<b>ACTION TAKEN</b> <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Tabled <input type="checkbox"/> Accepted Report <input type="checkbox"/> Other	
<b>Date of Action:</b> _____	
<b>Comments:</b>	