



CITY COUNCIL MEETING AGENDA

City of New Prague

Tuesday, September 05, 2023 at 6:00 PM

City Hall Council Chambers - 118 Central Ave N

OPTIONAL ONLINE CONNECTION. MEETINGS ARE IN PERSON.

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1. CALL TO ORDER

- a. Pledge of Allegiance

2. APPROVAL OF REGULAR AGENDA

3. SWEARING IN OF SERGEANT

- a. Sergeant Curtis Culbreth

4. CONSENT AGENDA

(The following agenda items are considered to be non-controversial and routine in nature. They will be handled with one motion of the City Council. Council members may request that specific items be removed from the Consent Agenda and be acted upon separately.)

- a. Meeting Minutes
 - i. August 21, 2023, City Council Meeting Minutes
 - ii. August 21, 2023, Special Closed City Council Meeting Minutes
 - iii. August 29, 2023, Special City Council Meeting Minutes
- b. Claims for Payment: **\$90,583.10**
- c. LG220 MN Lawful Gambling Application for Exempt Permit for Scott Le Sueur Waterfowlers, Inc. on November 16, 2023, involving a raffle at The Park Ballroom, 300 Lexington Avenue South, New Prague
- d. LG220 MN Lawful Gambling Application for Exempt Permit for Ducks Unlimited New Prague Chapter 263 on October 14, 2023, involving a raffle at the Park Ballroom, 300 Lexington Avenue South, New Prague
- e. Le Sueur County Voter Account Agreement

5. CITY ENGINEER PROJECTS UPDATE

- a. September 5, 2023

6. 10TH AVENUE RRFB - RECOMMENDATION TO AWARD

- a. Bid Summary
- b. Resolution #23-09-05-01 - 10th Avenue SE RRFB Accepting Bids

7. PUBLIC INVITED TO BE HEARD ON MATTERS NOT ON THE AGENDA

(Speakers limited to 5 minutes.)

8. PUBLIC HEARING(S) – 6:00 PM

- a. Granting a Cable Television Franchise to Comcast of Arkansas/Louisiana/Minnesota/Mississippi/Tennessee, LLC

9. ORDINANCE(S) FOR INTRODUCTION

- a. Ordinance #339 - Granting a Cable Television Franchise to Comcast of Arkansas/Louisiana/Minnesota/Mississippi/Tennessee, LLC
- b. Introduction of Ordinance Amending Section 707 of the Zoning Ordinance Titled Screening Relating to Screening Requirements in the I-1 Light Industrial Zoning District

10. ORDINANCE(S) FOR ADOPTION

- a. Adoption of Ordinance Creating New Chapter 132 to the City Code Relating to Public Use of Cannabis and Hemp Products and the Smoking of Any Substance on Public Property

11. RESOLUTIONS

- a. Resolution #23-09-05-02 - Amending and Restating the Resolution Establishing the New Prague Golf Board

12. GENERAL BUSINESS

- a. City Administrator Evaluation

13. MISCELLANEOUS

- a. Meeting Minutes
 - i. Planning
 - ii. Utilities

14. ADJOURNMENT

UPCOMING MEETINGS AND NOTICES:

September 11	12:00 p.m. Community Center Board
September 12	6:00 p.m. Park Board
September 13	7:30 a.m. EDA Board
September 18	6:00 p.m. City Council
September 25	3:30 p.m. Utilities Commission
September 25	4:00 p.m. Joint Powers Board – Fitness & Aquatic Center
September 26	6:30 p.m. Golf Board
September 27	6:30 p.m. Planning Commission
October 2	6:00 p.m. City Council



New Prague Police Department

City of New Prague In the Counties of Scott & Le Sueur

118 CENTRAL AVENUE NORTH, NEW PRAGUE, MINNESOTA 56071

Phone: (952) 758-2791

Fax: (952) 758-6279

Website: www.ci.new-prague.mn.us

Tim Applen, Chief of Police

MEMORANDUM

To: Honorable Mayor, Duane Jirik; Members of the City Council, Shawn Ryan, Maggie Bass, Bruce Wolf, Rik Seiler and City Administrator, Joshua Tetzlaff

From: Tim Applen, Police Chief / Emergency Manager

Date: Thursday August 31, 2023

Subject: Oath for Police Sergeant Position of Edward (Curtis) Culbreth

The Police Department has hired a new Police Sergeant:

On May 24, 2023, Sergeant Curtis Culbreth began his employment with the City of New Prague as a Police Sergeant.

It is my desire to have Sergeant Culbreth take an oath administered by Mayor Jirik, in front of the City Council, the representatives of the people. This oath will continue his service to the citizens of the City of New Prague and the people he will have contact with throughout his career.

Recommendation: Swear in Sergeant Curtis Culbreth as Police Sergeant for the City of New Prague.

New Prague Police Department



City of New Prague In the Counties of Scott & Le Sueur

118 CENTRAL AVENUE NORTH, SUITE 3, NEW PRAGUE, MINNESOTA 56071

- Phone: (952) 758-2791
- Fax: (952) 758-6279
- Website: www.ci.new-prague.mn.us

Tim Applen, Chief of Police

Swearing in of Sergeant Curtis Culbreth.

Date: September 5, 2023

I, Curtis Culbreth, on my honor, will never betray my badge, my integrity, my character, or the public trust.

I will always have the courage to hold myself and others accountable for our actions.

I will uphold the United States Constitution, the Constitution of the State of Minnesota, and its laws.

I will uphold the ordinances of the City of New Prague and faithfully serve my agency and community to the best of my abilities.

This oath was administered by the Honorable Mayor Duane Jirik on April 17, 2023, while presiding over the council meeting held on the same date.

_____ Mayor Duane J. Jirik	_____ Date 9/5/2023	_____ Chief of Police Tim Applen	_____ Date 9/5/2023
_____ City Administrator Joshua M. Tetzlaff	_____ Date 9/5/2023	_____ Police Sergeant Curtis Culbreth	_____ Date 9/5/2023



CITY COUNCIL MEETING MINUTES

City of New Prague

Monday, August 21, 2023 at 6:00 PM

City Hall Council Chambers - 118 Central Ave N

1. CALL TO ORDER

Mayor Duane Jirik called the meeting to order at approximately 6:00 p.m.

PRESENT

Mayor Duane Jirik
 Councilmember Maggie Bass
 Councilmember Rik Seiler
 Councilmember Bruce Wolf

ABSENT

Councilmember Shawn Ryan

Staff present: City Administrator Josh Tetzlaff, Planning/Community Development Director Ken Ondich, Police Chief Tim Applen, and Public Works Director Matt Rynda

a. Pledge of Allegiance

2. APPROVAL OF REGULAR AGENDA

Motion made by Councilmember Bass, Seconded by Councilmember Wolf to approve the Regular Agenda.
 Voting Yea: Mayor Jirik, Councilmember Bass, Councilmember Seiler, Councilmember Wolf
 Motion carried (4-0).

3. CONSENT AGENDA

Motion made by Councilmember Seiler, Seconded by Councilmember Wolf to approve the Consent Agenda.
 Voting Yea: Mayor Jirik, Councilmember Bass, Councilmember Seiler, Councilmember Wolf
 Motion carried (4-0).

- a. Meeting Minutes
 - i. August 7, 2023, City Council Meeting Minutes
- b. Claims for Payment: **\$824,042.44**
- c. Premises Permit Extension Request for 1319 Woodfire Tavern
- d. Resolution #23-08-21-01 - Approving Lawful Gambling Premises Permit Application LG214 for the New Prague Chamber of Commerce at Outlaw Saloon, 103 Main Street West
- e. LG220 MN Lawful Gambling Application for Exempt Permit for Fore Children's Foundation on August 25, 2023, involving a raffle at the New Prague Golf Club, 400 Lexington Avenue South, New Prague
- f. Premises Permit Extension Requests for Giesenbräu Bier Co.
- g. Homecoming Parade Request

4. CITY ENGINEER PROJECTS UPDATE

- a. Projects Update - August 21, 2023

City Engineer Chris Knutson provided a memo with updates from various projects taking place around the City. No action was taken.

5. 10TH AVENUE SE HSIP PROJECT

- a. Review of Bids
City Engineer Chris Knutson provided a summary of the bids received. No action was taken.

6. PUBLIC INVITED TO BE HEARD ON MATTERS NOT ON THE AGENDA

Gary Whiteis addressed the Council regarding the Cannabis Ordinance.

7. PUBLIC HEARING(S) – 6:00 PM

- a. Corner Bar at 100 Main Street West - Approval of the Issuance of an On-Sale Intoxicating Liquor License, Sunday Liquor License, Off-Sale Intoxicating Liquor License, and Dance Permit
Mayor Duane Jirik opened the public hearing. Owner Ireland Hurley was in attendance. Hearing no comment from the public, Major Jirik closed the public hearing.
Motion made by Councilmember Bass, Seconded by Councilmember Seiler to approve Corner Bar's application for liquor licenses.
Voting Yea: Mayor Jirik, Councilmember Bass, Councilmember Seiler, Councilmember Wolf
Motion carried (4-0).

8. ORDINANCE(S) FOR INTRODUCTION

- a. An Ordinance Amending Title XI of the City Code by Creating A New Chapter 122 As To The Public Use of Tobacco, Hemp and Cannabis Products
City Administrator Josh Tetzlaff gave a brief overview. Discussion was had. Motion made by Mayor Jirik, Seconded by Councilmember Bass to approve the first reading of the Ordinance, removing mention of the New Prague Golf Course everywhere, excluding Section 3(A)(2).
Voting Yea: Mayor Jirik, Councilmember Bass, Councilmember Wolf
Voting Nay: Councilmember Seiler
Motion carried (3-1).

9. ORDINANCE(S) FOR ADOPTION

There were no ordinances for adoption at this meeting.

10. RESOLUTIONS

There were no resolutions for consideration at this meeting.

11. GENERAL BUSINESS

- a. Schedule Budget Meeting
The first Budget Meeting was scheduled for August 29th at 5:00 p.m.

12. MISCELLANEOUS

- a. Meeting Minutes
 - i. Park
 - ii. EDA
- b. Discussion of Items not on the Agenda
 - i. Councilmember Seiler requested for upcoming Joint Powers Board, Cedar Lake Sanitary Board, and the New Prague Community Center Board meetings to be listed on the Agenda.
 - ii. Councilmember Wolf had a question about the Tree Study conducted by Bolton & Menk. Planning/Community Development Director Ken Ondich responded.
 - iii. Mayor Jirik inquired about trees on private property that are infested with Emerald Ash Borer.

- iv. Public Works Director Matt Rynda provided an update regarding the work being done on Main Street.
- v. Police Chief Tim Appen relayed updates regarding Dožínky Days.

13. ADJOURNMENT

Motion made by Councilmember Seiler, Seconded by Councilmember Wolf to adjourn the meeting at approximately 7:04 p.m.

Voting Yea: Mayor Jirik, Councilmember Bass, Councilmember Seiler, Councilmember Wolf

Motion carried (4-0).

ATTEST:

Duane J. Jirik
Mayor

Joshua M. Tetzlaff
City Administrator



SPECIAL CITY COUNCIL MEETING - CLOSED MINUTES

City of New Prague

Monday, August 21, 2023 at 6:00 PM

City Hall Council Chambers - 118 Central Ave N

Mayor Jirik called the Closed portion of the meeting to order at approximately 7:05 p.m. with the following members present: Mayor Duane Jirik and Councilmembers Maggie Bass, Bruce Wolf, and Rik Seiler.

1. **CLOSED SESSION:** Went into Closed session at 7:05 p.m. to conduct a closed City Council meeting to review annual performance of an individual subject to the City Council’s authority, Joshua M. Tetzlaff, City Administrator.
2. **ADJOURNMENT:** Motion made by Councilmember Bass, seconded by Councilmember Wolf to adjourn the meeting at approximately 8:05 p.m. All voted in favor. Motion carried (4-0).

ATTEST:

Duane J. Jirik
Mayor

Joshua M. Tetzlaff
City Administrator



SPECIAL CITY COUNCIL MEETING MINUTES

City of New Prague

Tuesday, August 29, 2023 at 5:00 PM

City Hall Council Chambers - 118 Central Ave N

1. CALL TO ORDER

Mayor Duane Jirik called the Special meeting to order at 5:00 p.m.

PRESENT

- Mayor Duane Jirik
- Councilmember Shawn Ryan
- Councilmember Maggie Bass
- Councilmember Rik Seiler
- Councilmember Bruce Wolf

2. APPROVAL OF REGULAR AGENDA

- a. 2024 Budget Discussion. Discussion was had amongst Council and staff regarding the 2024 budget. No action was taken.
- b. Cannabis Discussion. Staff and Council discussed cannabis legislation. No action was taken.
- c. School District Discussion. Council and staff discussed the possibility of a school referendum. No action was taken.

3. ADJOURNMENT

Motion made by Councilmember Bass, seconded by Councilmember Ryan to adjourn. All voted in favor. Motion carried (5-0).

ATTEST:

 Duane J. Jirik
 Mayor

 Joshua M. Tetzlaff
 City Administrator

CITY OF NEW PRAGUE
 ACCOUNTS PAYABLE
 9/05/2023

Section 4, Item b.

VENDOR	DESCRIPTION	AMOUNT	TOTAL
FUND 101 - GENERAL FUND			
<u>RURAL FIRE - TO BE REIMBURSED</u>			
BEVCOMM	TELEPHONE	\$88.19	
MED COMPASS	FIT TEST	\$27.50	
MUNICIPAL EMERGENCY SERVICE	NOZZLES / HOSE	\$1,739.22	
MUNICIPAL EMERGENCY SERVICE	THERMAL BATTERIES	\$222.41	
NEW PRAGUE UTILITIES	UTILITIES	\$1,096.05	
ROSS NESBIT AGENCIES, INC.	AGENCY FEE	\$16.60	
RYAN KUBES	ACTION 911	\$270.00	
STAR GROUP, LLC.	TRUCK PARTS	\$96.49	
VOYAGER FLEET SYSTEMS	FUEL	\$677.64	
TOTAL:			\$4,234.10
<u>OTHER - TO BE REIMBURSED</u>			
HERMAN'S LANDSCAPE SUPPLIE	PAVER SAND - LIBRARY SCULPTURE	\$85.50	
KENNEDY & GRAVEN CHARTERED	LEGAL SERVICES - BRICK'S BOATWORKS	\$291.50	
KENNEDY & GRAVEN CHARTERED	LEGAL SERVICES - DOHM	\$106.00	
TOTAL:			\$483.00
<u>ESCROW REFUNDS</u>			
KREUSER CONSTRUCTION SERVICES	ESCROW - 1225 OLIVIA ST SE	\$1,500.00	
TOTAL:			\$1,500.00
<u>COUNCIL</u>			
US BANK EQUIPMENT FINANCE	COPIER LEASE	\$274.98	
TOTAL:			\$274.98
<u>ADMINISTRATION</u>			
AMAZON CAPITAL SERVICES	HEADSET	-\$100.00	
BEVCOMM	TELEPHONE	\$97.98	
QUADIENT LEASING USA, INC.	POSTAGE LEASE	\$74.28	
US BANK EQUIPMENT FINANCE	COPIER LEASE	\$544.10	
TOTAL:			\$616.36
<u>TECH NETWORK</u>			
SCOTT COUNTY TREASURER	ANNUAL FIBER LATERAL COST	\$475.00	
TOTAL:			\$475.00
<u>ATTORNEY</u>			
KENNEDY & GRAVEN CHARTERED	LEGAL SERVICES	\$1,780.65	
TOTAL:			\$1,780.65
<u>PLANNING</u>			
AMAZON CAPITAL SERVICES	MANILLA ENVELOPES	\$52.60	
BEVCOMM	TELEPHONE	\$42.93	
QUADIENT LEASING USA, INC.	POSTAGE LEASE	\$22.40	
US BANK EQUIPMENT FINANCE	COPIER LEASE	\$44.18	
TOTAL:			\$162.11
<u>GOVERNMENT BUILDING</u>			
NEW PRAGUE UTILITIES	UTILITIES	\$2,038.14	
TOTAL:			\$2,038.14
<u>POLICE</u>			
BAYCOM INC	SQUAD PRINTER	\$362.00	
BEVCOMM	TELEPHONE	\$104.11	
NORTH CENTRAL DBA RW&B	DECALS	\$333.25	
QUADIENT LEASING USA, INC.	POSTAGE LEASE	\$9.63	
STREICHER'S	BADGES	\$159.99	
US BANK EQUIPMENT FINANCE	COPIER LEASE	\$313.14	
VOYAGER FLEET SYSTEMS	FUEL	\$1,742.43	
ZACHARY AMBROZ	MEAL REIMBURSEMENT	\$45.45	
TOTAL:			\$3,070.00

CITY OF NEW PRAGUE
 ACCOUNTS PAYABLE
 9/05/2023

Section 4, Item b.

VENDOR	DESCRIPTION	AMOUNT	TOTAL
<u>FIRE</u>			
BEVCOMM	TELEPHONE	\$88.19	
MED COMPASS	FIT TEST	\$27.50	
MUNICIPAL EMERGENCY SERVICE	NOZZLES / HOSE	\$1,739.23	
MUNICIPAL EMERGENCY SERVICE	THERMAL BATTERIES	\$222.40	
NEW PRAGUE UTILITIES	UTILITIES	\$1,096.07	
RYAN KUBES	ACTION 911	\$270.00	
STAR GROUP, LLC.	TRUCK PARTS	\$96.50	
VOYAGER FLEET SYSTEMS	FUEL	\$291.83	
TOTAL:			\$3,831.72
<u>BUILDING INSPECTOR</u>			
#### AMAZON CAPITAL SERVICES	PHONE CLIP	\$19.55	
#### BEVCOMM	TELEPHONE	\$42.93	
#### QUADIENT LEASING USA, INC.	POSTAGE LEASE	\$1.18	
#### VOYAGER FLEET SYSTEMS	FUEL	\$182.70	
TOTAL:			\$246.36
<u>PUBLIC WORKS</u>			
AMAZON CAPITAL SERVICES	JUNCTION BOX	\$28.39	
RIVER'S EDGE CONCRETE, LLC	COMPOST SITE CONCRETE	\$290.49	
SIGNATURE GRAPHICS	COMPOST SITE SIGN	\$857.32	
TOTAL:			\$1,176.20
<u>STREET</u>			
ACE HARDWARE	SUPPLIES	22.09	
AMAZON CAPITAL SERVICES	CHAINSAW PART	\$19.99	
AMAZON CAPITAL SERVICES	DOOR HANDLE	\$121.43	
AMAZON CAPITAL SERVICES	FLASHLIGHT BATTERY	\$12.33	
BEVCOMM	TELEPHONE	\$73.66	
CRYSTEEL TRUCK EQUIPMENT, INC	CYLINDER	-\$164.77	
CRYSTEEL TRUCK EQUIPMENT, INC	REPLACEMENT LENS	\$42.00	
DIGI-KEY ELECTRONICS	COMPOST GRANT	53.34	
NEW PRAGUE UTILITIES	UTILITIES	\$394.19	
PRIOR LAKE / SAVAGE RENTAL CENTER	STUMP GRINDER	\$272.99	
RIVER'S EDGE CONCRETE, LLC	LIBRARY STRUCTURE	\$232.39	
VOYAGER FLEET SYSTEMS	FUEL	\$1,326.54	
TOTAL:			\$2,406.18
<u>STREET LIGHTS</u>			
NEW PRAGUE UTILITIES	UTILITIES	\$3,988.75	
TOTAL:			\$3,988.75
<u>PARKS</u>			
AMAZON CAPITAL SERVICES	BUNGEE CORD	\$36.85	
AMAZON CAPITAL SERVICES	SOAKER HOSE	\$140.97	
AMAZON CAPITAL SERVICES	SPRINKLER TIMER	\$29.99	
BEVCOMM	TELEPHONE	\$31.56	
GRAFFITI SOLUTIONS, INC	GRAFFITI REMOVER	\$240.00	
NEW PRAGUE UTILITIES	UTILITIES	\$2,889.93	
OESTREICH REPAIR	WORKMAN TUBES	\$47.74	
O'REILLY AUTOMOTIVE, INC	TERMINAL / CONNECTORS / POWER INVER	\$130.95	
R&R METALWORKS	PLAYGROUND EQUIPMENT REPAIR	\$40.00	
RIVER'S EDGE CONCRETE, LLC	PLANTERS / SOUTHSIDE BENCH / CORNHOI	\$929.56	
TIM'S SMALL ENGINE SERVICE	WEED WHIP REPAIR	\$100.00	
VOYAGER FLEET SYSTEMS	FUEL	\$1,186.13	
TOTAL:			\$5,803.68
<u>PARK BOARD</u>			
RIVER'S EDGE CONCRETE, LLC	NORTHSIDE BASKETBALL	\$338.90	
TOTAL:			\$338.90

CITY OF NEW PRAGUE
 ACCOUNTS PAYABLE
 9/05/2023

Section 4, Item b.

VENDOR	DESCRIPTION	AMOUNT	TOTAL
<u>LIBRARY</u>			
DUAL AIR INC.	LIBRARY A/C & FURNACE	\$17,787.38	
NEW PRAGUE UTILITIES	UTILITIES	\$1,084.28	
TOTAL:			\$18,871.66
<u>UNALLOCATED</u>			
ROSS NESBIT AGENCIES, INC.	AGENCY FEE	\$327.00	
TOTAL:			\$327.00
GENERAL FUND TOTAL:			\$51,624.79
FUND 423 - CAPITAL PROJECTS - CIP 2024			
KENNEDY & GRAVEN CHARTERED SEH	LEGAL SERVICES CIP 2024	\$155.05	
TOTAL:		\$12,564.75	\$12,719.80
FUND 602 - ENTERPRISE - SANITARY SEWER			
AMAZON CAPITAL SERVICES	HEADSET	-\$10.00	
BEVCOMM	TELEPHONE	\$205.65	
GOPHER STATE ONE CALL	LINE LOCATES	30.71	
MN VALLEY TESTING LABS	TESTING	\$0.40	
NEON LINK	ONLINE PAYMENT FEES	186.35	
NEW PRAGUE UTILITIES	UTILITIES	\$21,343.03	
ROSS NESBIT AGENCIES, INC.	AGENCY FEE	\$210.60	
RS AMERICAS INC	PTC SENSOR / TEMPERATURE INDICATOR	\$96.80	
RS AMERICAS INC	REGULATOR REPAIR KIT	\$86.36	
RS AMERICAS INC	SENSORS	\$667.86	
VEGA AMERICAS	SLUDGE TANK LEVEL SENSOR	\$2,673.58	
VOYAGER FLEET SYSTEMS	FUEL	\$193.96	
TOTAL:			\$25,685.30
FUND 606 - ENTERPRISE - STORM UTILITY			
AMAZON CAPITAL SERVICES	HEADSET	-\$10.00	
GOPHER STATE ONE CALL	LINE LOCATES	30.72	
NEON LINK	ONLINE PAYMENT FEES	22.36	
ROSS NESBIT AGENCIES, INC.	AGENCY FEE	\$3.60	
VOYAGER FLEET SYSTEMS	FUEL	\$8.57	
TOTAL:			\$55.25
FUND 651 - ENTERPRISE - AMBULANCE			
NEW PRAGUE UTILITIES	UTILITIES	\$487.76	
ROSS NESBIT AGENCIES, INC.	AGENCY FEE	\$10.20	
TOTAL:			\$497.96
TOTAL ACCOUNTS PAYABLE FOR COUNCIL APPROVAL:			\$90,583.10



118 Central Avenue North, New Prague, MN 56071
phone: 952-758-4401 fax: 952-758-1149

MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: JOSHUA TETZLAFF, CITY ADMINISTRATOR
SUBJECT: SCOTT LE SUEUR WATERFOWLERS INC. - MINNESOTA LAWFUL GAMBLING
LG220 APPLICATION FOR EXEMPT PERMIT
DATE: AUGUST 28, 2023

Attached is a Minnesota Lawful Gambling LG220 Application for Scott Le Sueur Waterfowlers Inc. to conduct a raffle at an event on November 16, 2023, at The Park Ballroom, 300 Lexington Avenue South, New Prague.

Recommendation

Staff recommends approval of the Lawful Gambling Permit for Scott Le Sueur Waterfowlers Inc. and recommends requesting a waiver of the waiting period.

MINNESOTA LAWFUL GAMBLING
LG220 Application for Exempt Permit

An exempt permit may be issued to a nonprofit organization that:
• conducts lawful gambling on five or fewer days, and
• awards less than \$50,000 in prizes during a calendar year.
If total raffle prize value for the calendar year will be \$1,500 or less, contact the Licensing Specialist assigned to your county by calling 651-539-1900.

Application Fee (non-refundable)

Applications are processed in the order received. If the application is postmarked or received 30 days or more before the event, the application fee is **\$100**; otherwise the fee is **\$150**.
Due to the high volume of exempt applications, payment of additional fees prior to 30 days before your event will not expedite service, nor are telephone requests for expedited service accepted.

ORGANIZATION INFORMATION

Organization Name: Scott LeSueur Waterfowlers Inc Previous Gambling Permit Number: X- 94614-22-004
Minnesota Tax ID Number, if any: _____ Federal Employer ID Number (FEIN), if any: 84-3149767
Mailing Address: 511 1st St. South
City: Montgomery State: MN Zip: 56069 County: LeSueur
Name of Chief Executive Officer (CEO): Andrew Harms
CEO Daytime Phone: 507-364-5044 CEO Email: harm.sway@hotmail.com
(permit will be emailed to this email address unless otherwise indicated below)
Email permit to (if other than the CEO): scottlesueurwaterfowlers@gmail.com

NONPROFIT STATUS

Type of Nonprofit Organization (check one):
 Fraternal Religious Veterans Other Nonprofit Organization

Attach a copy of one of the following showing proof of nonprofit status:

(DO NOT attach a sales tax exempt status or federal employer ID number, as they are not proof of nonprofit status.)
 A current calendar year Certificate of Good Standing
Don't have a copy? Obtain this certificate from:
MN Secretary of State, Business Services Division
60 Empire Drive, Suite 100
St. Paul, MN 55103
Secretary of State website, phone numbers:
www.sos.state.mn.us
651-296-2803, or toll free 1-877-551-6767
 IRS income tax exemption (501(c)) letter in your organization's name
Don't have a copy? To obtain a copy of your federal income tax exempt letter, have an organization officer contact the IRS toll free at 1-877-829-5500.
 IRS - Affiliate of national, statewide, or international parent nonprofit organization (charter)
If your organization falls under a parent organization, attach copies of both of the following:
1. IRS letter showing your parent organization is a nonprofit 501(c) organization with a group ruling; and
2. the charter or letter from your parent organization recognizing your organization as a subordinate.

GAMBLING PREMISES INFORMATION

Name of premises where the gambling event will be conducted (for raffles, list the site where the drawing will take place): The Park Ballroom
Physical Address (do not use P.O. box): 300 Lexington Ave South
Check one:
 City: New Prague Zip: 56071 County: LeSueur
 Township: _____ Zip: _____ County: _____
Date(s) of activity (for raffles, indicate the date of the drawing): 11/16/23
Check each type of gambling activity that your organization will conduct:
 Bingo Paddlewheels Pull-Tabs Tipboards Raffle

Gambling equipment for bingo paper, bingo boards, raffle boards, paddlewheels, pull-tabs, and tipboards must be obtained from a distributor licensed by the Minnesota Gambling Control Board. EXCEPTION: Bingo hard cards and bingo ball selection devices may be borrowed from another organization authorized to conduct bingo. To find a licensed distributor, go to www.mn.gov/gcb and click on **Distributors** under the **List of Licensees** tab, or call 651-539-1900.

LOCAL UNIT OF GOVERNMENT ACKNOWLEDGMENT (required before submitting application to the Minnesota Gambling Control Board)

**CITY APPROVAL
for a gambling premises
located within city limits**

The application is acknowledged with no waiting period.

The application is acknowledged with a 30-day waiting period, and allows the Board to issue a permit after 30 days (60 days for a 1st class city).

The application is denied.

Print City Name: City of New Prague

Signature of City Personnel: _____

Title: _____ Date: _____

The city or county must sign before submitting application to the Gambling Control Board.

**COUNTY APPROVAL
for a gambling premises
located in a township**

The application is acknowledged with no waiting period.

The application is acknowledged with a 30-day waiting period, and allows the Board to issue a permit after 30 days.

The application is denied.

Print County Name: _____

Signature of County Personnel: _____

Title: _____ Date: _____

TOWNSHIP (if required by the county)
On behalf of the township, I acknowledge that the organization is applying for exempted gambling activity within the township limits. (A township has no statutory authority to approve or deny an application, per Minn. Statutes, section 349.213.)

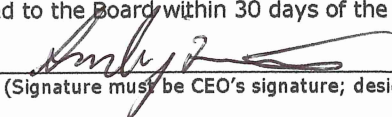
Print Township Name: _____

Signature of Township Officer: _____

Title: _____ Date: _____

CHIEF EXECUTIVE OFFICER'S SIGNATURE (required)

The information provided in this application is complete and accurate to the best of my knowledge. I acknowledge that the financial report will be completed and returned to the Board within 30 days of the event date.

Chief Executive Officer's Signature:  Date: 8/25/23

(Signature must be CEO's signature; designee may not sign)

Print Name: Andrew Harms

REQUIREMENTS

Complete a separate application for:

- all gambling conducted on two or more consecutive days; or
- all gambling conducted on one day.

Only one application is required if one or more raffle drawings are conducted on the same day.

Financial report to be completed within 30 days after the gambling activity is done:
A financial report form will be mailed with your permit. Complete and return the financial report form to the Gambling Control Board.

Your organization must keep all exempt records and reports for 3-1/2 years (Minn. Statutes, section 349.166, subd. 2(f)).

MAIL APPLICATION AND ATTACHMENTS

Mail application with:

- _____ a copy of your proof of nonprofit status; and
- _____ application fee (non-refundable). If the application is postmarked or received 30 days or more before the event, the application fee is **\$100**; otherwise the fee is **\$150**. Make check payable to **State of Minnesota**.

To: Minnesota Gambling Control Board
1711 West County Road B, Suite 300 South
Roseville, MN 55113

Questions?
Call the Licensing Section of the Gambling Control Board at 651-539-1900.

Data privacy notice: The information requested on this form (and any attachments) will be used by the Gambling Control Board (Board) to determine your organization's qualifications to be involved in lawful gambling activities in Minnesota. Your organization has the right to refuse to supply the information; however, if your organization refuses to supply this information, the Board may not be able to determine your organization's qualifications and, as a consequence, may refuse to issue a permit. If your organization supplies the information requested, the Board will be able to process the application. Your organization's name and address will be public information when received by the Board. All other information provided will be private data about your organization until the Board issues the permit. When the Board issues the permit, all information provided will become public. If the Board does not issue a permit, all information provided remains private, with the exception of your organization's name and address which will remain public. Private data about your organization are available to Board members, Board staff whose work requires access to the information; Minnesota's Department of Public Safety; Attorney General; Commissioners of Administration, Minnesota Management & Budget, and Revenue; Legislative Auditor, national and international gambling regulatory agencies; anyone pursuant to court order; other individuals and agencies specifically authorized by state or federal law to have access to the information; individuals and agencies for which law or legal order authorizes a new use or sharing of information after this notice was given; and anyone with your written consent.

**Office of the Minnesota Secretary of State
Certificate of Good Standing**

I, Steve Simon, Secretary of State of Minnesota, do certify that: The business entity listed below was filed pursuant to the Minnesota Chapter listed below with the Office of the Secretary of State on the date listed below and that this business entity is registered to do business and is in good standing at the time this certificate is issued.

Name: Scott LeSueur Waterfowlers Inc
Date Filed: 09/24/2019
File Number: 1104053100023
Minnesota Statutes, Chapter: 317A
Home Jurisdiction: Minnesota

This certificate has been issued on: 08/25/2023



Steve Simon
Secretary of State
State of Minnesota



118 Central Avenue North, New Prague, MN 56071
phone: 952-758-4401 fax: 952-758-1149

MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: JOSHUA TETZLAFF, CITY ADMINISTRATOR
SUBJECT: DUCKS UNLIMITED NEW PRAGUE CHAPTER 263 - MINNESOTA LAWFUL GAMBLING LG220 APPLICATION FOR EXEMPT PERMIT
DATE: AUGUST 30, 2023

Attached is a Minnesota Lawful Gambling LG220 Application for Ducks Unlimited New Prague Chapter 263 to conduct a raffle at an event on October 14, 2023, at The Park Ballroom, 300 Lexington Avenue South, New Prague.

Recommendation

Staff recommends approval of the Lawful Gambling Permit for Ducks Unlimited New Prague Chapter 263 and recommends requesting a waiver of the waiting period.

MINNESOTA LAWFUL GAMBLING
LG220 Application for Exempt Permit

An exempt permit may be issued to a nonprofit organization that:
• conducts lawful gambling on five or fewer days, and
• awards less than \$50,000 in prizes during a calendar year.
If total raffle prize value for the calendar year will be \$1,500 or less, contact the Licensing Specialist assigned to your county by calling 651-539-1900.

Application Fee (non-refundable)
Applications are processed in the order received. If the application is postmarked or received 30 days or more before the event, the application fee is **\$100**; otherwise the fee is **\$150**.
Due to the high volume of exempt applications, payment of additional fees prior to 30 days before your event will not expedite service, nor are telephone requests for expedited service accepted.

ORGANIZATION INFORMATION

Organization Name: Ducks Unlimited New Prague Chapter 263 Previous Gambling Permit Number: X- 32334-23-018
Minnesota Tax ID Number, if any: _____ Federal Employer ID Number (FEIN), if any: 27-2774985
Mailing Address: 20676 340th St
City: Le Center State: MN Zip: 56057 County: Le Sueur
Name of Chief Executive Officer (CEO): Ruth Hoefs
CEO Daytime Phone: 612-756-1500 CEO Email: rashoefs@gmail.com
(permit will be emailed to this email address unless otherwise indicated below)
Email permit to (if other than the CEO): _____

NONPROFIT STATUS

Type of Nonprofit Organization (check one):
 Fraternal Religious Veterans Other Nonprofit Organization

Attach a copy of one of the following showing proof of nonprofit status:

(DO NOT attach a sales tax exempt status or federal employer ID number, as they are not proof of nonprofit status.)
 A current calendar year Certificate of Good Standing
Don't have a copy? Obtain this certificate from:
MN Secretary of State, Business Services Division
60 Empire Drive, Suite 100
St. Paul, MN 55103
Secretary of State website, phone numbers:
www.sos.state.mn.us
651-296-2803, or toll free 1-877-551-6767
 IRS income tax exemption (501(c)) letter in your organization's name
Don't have a copy? To obtain a copy of your federal income tax exempt letter, have an organization officer contact the IRS toll free at 1-877-829-5500.
 IRS - Affiliate of national, statewide, or international parent nonprofit organization (charter)
If your organization falls under a parent organization, attach copies of both of the following:
1. IRS letter showing your parent organization is a nonprofit 501(c) organization with a group ruling; and
2. the charter or letter from your parent organization recognizing your organization as a subordinate.

GAMBLING PREMISES INFORMATION

Name of premises where the gambling event will be conducted (for raffles, list the site where the drawing will take place): American Legion Post 45/Park Ballroom
Physical Address (do not use P.O. box): 300 Lexington Ave S
Check one:
 City: New Prague Zip: 56071 County: Le Sueur
 Township: _____ Zip: _____ County: _____
Date(s) of activity (for raffles, indicate the date of the drawing): October 14, 2023

Check each type of gambling activity that your organization will conduct:
 Bingo Paddlewheels Pull-Tabs Tipboards Raffle
Gambling equipment for bingo paper, bingo boards, raffle boards, paddlewheels, pull-tabs, and tipboards must be obtained from a distributor licensed by the Minnesota Gambling Control Board. EXCEPTION: Bingo hard cards and bingo ball selection devices may be borrowed from another organization authorized to conduct bingo. To find a licensed distributor, go to www.mn.gov/gcb and click on **Distributors** under the **List of Licensees** tab, or call 651-539-1900.

LG220 Application for Exempt Permit

LOCAL UNIT OF GOVERNMENT ACKNOWLEDGMENT (required before submitting application to the Minnesota Gambling Control Board)

**CITY APPROVAL
for a gambling premises
located within city limits**

The application is acknowledged with no waiting period.

The application is acknowledged with a 30-day waiting period, and allows the Board to issue a permit after 30 days (60 days for a 1st class city).

The application is denied.

Print City Name: _____

Signature of City Personnel: _____

Title: _____ Date: _____

The city or county must sign before submitting application to the Gambling Control Board.

**COUNTY APPROVAL
for a gambling premises
located in a township**

The application is acknowledged with no waiting period.

The application is acknowledged with a 30-day waiting period, and allows the Board to issue a permit after 30 days.

The application is denied.

Print County Name: _____

Signature of County Personnel: _____

Title: _____ Date: _____

TOWNSHIP (if required by the county)
On behalf of the township, I acknowledge that the organization is applying for exempted gambling activity within the township limits. (A township has no statutory authority to approve or deny an application, per Minn. Statutes, section 349.213.)

Print Township Name: _____

Signature of Township Officer: _____

Title: _____ Date: _____

CHIEF EXECUTIVE OFFICER'S SIGNATURE (required)

The information provided in this application is complete and accurate to the best of my knowledge. I acknowledge that the financial report will be completed and returned to the Board within 30 days of the event date.

Chief Executive Officer's Signature: _____ Date: 8/28/2023

(Signature must be CEO's signature; designee may not sign)

Print Name: Ruth Hoefs

REQUIREMENTS

Complete a separate application for:

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- all gambling conducted on one day.

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A financial report form will be mailed with your permit. Complete and return the financial report form to the Gambling Control Board.

Your organization must keep all exempt records and reports for 3-1/2 years (Minn. Statutes, section 349.166, subd. 2(f)).

MAIL APPLICATION AND ATTACHMENTS

Mail application with:

_____ a copy of your proof of nonprofit status; and

_____ application fee (non-refundable). If the application is postmarked or received 30 days or more before the event, the application fee is **\$100**; otherwise the fee is **\$150**. Make check payable to **State of Minnesota**.

To: Minnesota Gambling Control Board
1711 West County Road B, Suite 300 South
Roseville, MN 55113

Questions?
Call the Licensing Section of the Gambling Control Board at 651-539-1900.

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This form will be made available in alternative format (i.e. large print, braille) upon request.

AUTHORIZATION

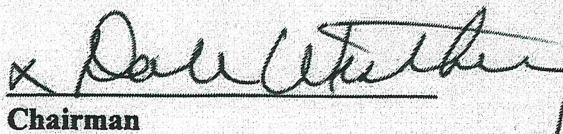
The undersigned, Chairman of the "New Prague"
Chapter, of Ducks Unlimited, Inc., hereby authorizes Ducks Unlimited, Inc.
to include said Chapter in an application for group income tax exemption
under Section 501. (c) (3) of the Internal Revenue Code, thereby relieving
said Chapter from the burden of obtaining a separate exemption
determination.

"New Prague"
Chapter of Ducks Unlimited, Inc.

263
Chapter #

New Prague, Minnesota
City State

4 MARCH 1996
Date


Chairman



118 Central Avenue North, New Prague, MN 56071
phone: 952-758-4401 fax: 952-758-1149

MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: ROBIN PIKAL, FINANCE DIRECTOR
SUBJECT: LE SUEUR COUNTY VOTER ACCOUNT AGREEMENT
DATE: AUGUST 31, 2023

On August 29th, 2023 the City received notice from Le Sueur County stating the Office of the Secretary of State has appropriated Voting Operations, Technology, & Election Resources (VOTER) funds to the counties in the State of MN to help with the costs of elections. For 2023, Le Sueur County’s share is \$8,110.33 of which the funds are allocated as follows:

- 50 percent retained by the County
- 25 percent is allocated to each local unit that administers absentee and mail ballots
- 25 percent is allocated to cities/townships in proportion to the number of registered voters.

The amount allocated to the City of New Prague for 2023 is \$240.73. We have two options for these funds:

1. Le Sueur County to keep the share of the allocated dollars to help offset election costs that the county covers such as maintenance of the equipment, printing of ballots, supplies for absentee voting/mail ballots, etc
2. The City requests that the County release the share of monies, with the understanding we must report to the County by December 15th on how it was spent, spending on allowable election costs only.

Since there was no election in 2023, the City’s current election expenses are \$1,200 for Le Sueur County’s annual election fee. Due to lack of election in 2023, I propose the County retain the funds. The City has the option to notify the County in writing our intent to terminate the agreement for retaining funds for future years allocation.

Recommendation

Staff recommends Council consider approving Le Sueur County retain VOTER Account Funds Received for 2023.

Voting Operations, Technology, & Election Resources (VOTER) Account Agreement

Section 4, Item e.

BY AND BETWEEN: Le Sueur County

AND: New Prague City,

WHEREAS, On July 20, 2023, the Office of the Secretary of State completed the electronic transfer of \$1.25 million in electronic payments to counties (20% was equally allocated to the 87 counties and 80% was allocated to the counties based on registered voters), of which **Le Sueur County's** share in 2023 is \$ **8,110.33** for the Voting Operations, Technology, & Election Resources (VOTER) Account in accordance with the requirements of Minnesota Statutes section 5.305,

And

WHEREAS, **Le Sueur County** is required to work with its local units of government to determine how the funds will be allocated within the county, or allocate, 25% in proportion to the Cities number of registered voters, of which, **New Prague City's** portion for 2023 is **\$240.73,**

And

WHEREAS, **Le Sueur County** currently administers the absentee and mail balloting for all precincts,

And

WHEREAS, **Le Sueur County** pays for all maintenance for all election equipment utilized by the local units of government, and printing of ballots,

NOW, THEREFORE, BE IT RESOLVED, that the **City of New Prague** does hereby agree to allow **Le Sueur County** to retain all Voting Operations, Technology, & Election Resources (VOTER) Account Funds received.

Adopted this _____ day of _____, 2023

_____ {Insert name of Council member} moved the approval of the foregoing agreement and the same was declared adopted upon unanimous vote of all members present.

Absent: _____ (names)

Attested and witnessed:

{New Prague City Clerk}

This agreement shall remain in effect and renew annually until such time that the County or municipality notifies the other party in writing of its desire to terminate the Agreement. The termination will be effective December 31 of the year of the notice, for the following year's allocation.



Building a Better World
for All of Us®

MEMORANDUM

TO: Mayor and City Council
Joshua Tetzlaff, City Administrator

FROM: Chris Knutson, PE (Lic. MN)

DATE: August 30, 2023

RE: Project Updates

See below for updates on current SEH Projects for the City of New Prague.

MAIN STREET (TH19) IMPROVEMENTS PROJECT

Closeout and final payment will be likely before the end of the summer.

2022 STREET AND UTILITY IMPROVEMENTS (COLUMBUS AVENUE)

The general contractor has noted they expect work to resume on turf restoration after the current hot weather. An application of payment will be included with the next council meeting.

2023 STREET AND UTILITY IMPROVEMENTS

Trail paving is scheduled for September 7th and 8th. We expect a walkthrough for substantial completion to occur soon after.

2024 STREET AND UTILITY IMPROVEMENTS PROJECT

A neighborhood meeting has been scheduled for September 13th. Survey work is complete and we expect to provide options for 10th Avenue SE improvements for staff review soon.

HSIP 10TH AVENUE SE-1ST STREET SE RRFB

We are recommending award of this project. See the separate memo and resolution.

10TH AVENUE NE – WATERMAIN REPAIRS

The contractor is planned for starting in September. A preconstruction meeting request has been sent to the Contractor to determine timing. We do not yet have a firm schedule.

cdk

x:\ko\newpr\common\council meetings\090523 cc project update.docx



Building a Better World
for All of Us®

MEMORANDUM

TO: Mayor and City Council
Joshua Tetzlaff, City Administrator

CC: Matt Rynda, Public Works Director
Bruce Reimers, Utilities General Manager

FROM: Chris Knutson, PE (Lic. MN)

DATE: August 30, 2023

RE: 10th Avenue SE RRFB
SEH No. NEWPR 169670 14.00

BID OPENING

Below is a summary of the bid opening held on Friday, August 11, 2023, along with a summary tabulation of the three bids received.

REVIEW OF BIDS

A summary of the low bid construction costs is shown below:

LOW BID COMPARISON TO COST ESTIMATES			
Project Area	Initial Cost Estimate	Final Engineer's Estimate	Low Bid
10 th Street RRFB	\$65,000.00	\$75,945.00	\$115,862.00

Grant funding provided to the City was based on the initial cost estimate of \$65,000. As received bids were higher than that amount, a request for additional funding through HSIP was made the day of the bid opening. The funding sources allows 90% of the construction costs to be funded through grant. Recent email correspondence from MnDOT District 7 State Aid Engineer, Lisa Bigham, noted that an additional \$45,776 is available for the Project. That would leave the remaining \$11,586 (10% of bid) as the responsibility of the City. An official request for additional funding will be made to MnDOT and approval should be provided prior to award of the Project. As such, approval of funding is noted as a condition within the attached resolution for award. It is expected that conventional Municipal State Aid funding (MSA) will be used to cover the City share of the project.

STAFF/ENGINEER RECOMMENDATION

It is recommended that the City Council approve the attached Resolution Accepting Bids for the 10th Avenue SE RRFB and to award the contract to New Look Contracting, Inc of Rogers, MN.

x:\ko\newpr\169670\1-gen\16-meet\memo summary of bids 08-30-23.docx

Engineers | Architects | Planners | Scientists

Short Elliott Hendrickson Inc., 11 Civic Center Plaza, Suite 200, Mankato, MN 56001-7710

507.388.1989 | 877.316.7636 | 888.908.8166 fax | sehinc.com

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State of Minnesota
Counties of Scott & Le Sueur
City of New Prague }
}

**CITY OF NEW PRAGUE
RESOLUTION #23-09-05-01**

**10th AVENUE SE RRFB
ACCEPTING BIDS**

WHEREAS, pursuant to an advertisement for bids for the construction of the 10th Avenue SE RRFB project (S.P. 237-070-001), bids were opened, and tabulated according to law, and the following bids were received in response to the advertisement:

<u>Contractor</u>	<u>Total Bid</u>
New Look Contracting, Inc. Rogers, MN	\$115,862.00
JL Theis, Inc. Faribault, MN	\$134,258.00
Urban Companies St. Paul, MN	\$145,590.00

AND WHEREAS, it appears that New Look Contracting, Inc., of Rogers, Minnesota, is the lowest responsible bidder,

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF NEW PRAGUE,
MINNESOTA:**

1. The mayor and administrator are hereby authorized and directed to enter into a contract with New Look Contracting, Inc., of Rogers, Minnesota, in the name of the City of New Prague, Minnesota, for the construction of the 10th Avenue SE RRFB project, in the amount of \$115,862.00, according to the plans and specification therefore approved by the city council and on file in the office of the City Administrator.
2. The City Administrator is hereby authorized and directed to return forthwith to all bidders the deposits made with their bids, except that the deposits of the successful bidder and the next lowest bidder shall be retained until a contract has been signed.
3. Award of the Contract is contingent upon the approval of additional funding toward the Project from the Highway Safety Improvement Program (HSIP) and as approved by MnDOT.

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague }
}

Adopted by the council this 5th day of September, 2023.

Duane J. Jirik
Mayor

ATTEST:

Joshua M. Tetzlaff
City Administrator



118 Central Avenue North, New Prague, MN 56071
phone: 952-758-4401 fax: 952-758-1149

MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: JOSHUA TETZLAFF, CITY ADMINISTRATOR
SUBJECT: COMCAST CABLE FRANCHISE AGREEMENT
DATE: AUGUST 31, 2022

When I started with the City, one of the items I started pursuing was updating the franchise agreements with CenterPoint Energy and Comcast. Last year, the City entered into a franchise agreement with CenterPoint Energy and once that was completed, I started working with Bob Vose from Kennedy & Graven to negotiate an agreement with Comcast.

Working off the previous agreement, and discussing industry norms with Mr. Vose, we went back and forth with Comcast to negotiate the continued distribution of cable and internet service within New Prague.

Some of the more meaningful things that Comcast has agreed to are as follows:

- This agreement has a term of ten (10) years).
- Language that requires the undergrounding of infrastructure, similar to how the New Prague Utilities Department is undergrounding all of their infrastructure.
- Language that requires removal of infrastructure that isn't being used.
- Language that requires access to at least one public access channel, should the City wish to use it. There is also language that allows the City to collect a fee for the equipment needed to broadcast.

After reviewing this agreement, both internally and with Kennedy-Graven, I believe this to be a solid franchise agreement, fair to both the City and to Comcast.

Recommendation

Staff recommends approval of the first reading of the Comcast Cable Franchise Agreement.

CITY OF NEW PRAGUE, MINNESOTA

ORDINANCE GRANTING A CABLE TELEVISION FRANCHISE

TO

**COMCAST OF ARKANSAS/LOUISIANA/MINNESOTA/MISSISSIPPI/
TENNESSEE, LLC**

September __, 2023

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ORDINANCE NO. #339

AN ORDINANCE RENEWING A FRANCHISE TO COMCAST OF ARKANSAS/LOUISIANA/MINNESOTA/MISSISSIPPI/TENNESSEE, LLC TO OPERATE AND MAINTAIN A CABLE SYSTEM IN THE CITY OF NEW PRAGUE MINNESOTA; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF FRANCHISE; PROVIDING FOR CITY REGULATION AND ADMINISTRATION OF THE CABLE SYSTEM; TERMINATING PRIOR FRANCHISE

RECITALS

The City of New Prague, Minnesota (“City”), pursuant to applicable federal and state law, is authorized to grant one (1) or more nonexclusive cable television franchises to construct, operate, maintain and reconstruct cable television systems within the City limits.

Comcast of Arkansas/Louisiana/Minnesota/Mississippi/Tennessee, LLC, a Delaware corporation (“Grantee”) has operated a Cable System in the City, under a cable television franchise granted pursuant to a Cable Television Franchise Ordinance 186.

Negotiations between Grantee and the City have been completed and the franchise renewal process followed in accordance with the guidelines established by the City Code, Minnesota Statutes Chapter 238 and the Cable Act (47 U.S.C. §546).

The City reviewed the legal, technical and financial qualifications of Grantee and has determined that it is in the best interest of the City and its residents to renew the cable television franchise with Grantee.

NOW, THEREFORE, THE CITY OF NEW PRAGUE DOES ORDAIN that a franchise is hereby granted to Comcast of Arkansas/Louisiana/Minnesota/Mississippi/Tennessee, LLC to operate and maintain a Cable System in the City upon the following terms and conditions:

SECTION 1 DEFINITIONS

1.1 Definitions. For the purpose of this Franchise, the following, terms, phrases, words, derivations and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. In the event the meaning of any word or phrase not defined herein is uncertain, the definitions contained in applicable local, state or federal law shall apply.

(a) “Access Channels” means any channel or portion of a channel utilized for public, educational or governmental programming.

(b) “Affiliate” shall mean any Person controlling, controlled by or under common control of Grantee.

(c) “Applicable Laws” means any law, statute, charter, ordinance, rule, regulation, code, license, certificate, franchise, permit, writ, ruling, award, executive order, directive, requirement, injunction (whether temporary, preliminary or permanent), judgment, decree or other order issued, executed, entered or deemed applicable by any governmental authority of competent jurisdiction.

(d) “Basic Cable Service” means any service tier which includes the lawful retransmission of local television broadcast.

(e) “Cable Act” means the Cable Communications Policy Act of 1984, 47 U.S.C. §§521 et seq., as amended by the Cable Television Consumer Protection and Competition Act of 1992, as further amended by the Telecommunications Act of 1996, as further amended from time to time.

(f) “Cable Service” shall be defined as set forth in Applicable Law, currently 47 U.S.C. § 522 (6), and currently defined as (a) the one-way transmission to Subscribers of (i) video programming or (ii) other programming service, and b) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. For the purposes of this definition, “video programming” is programming provided by, or generally considered comparable to programming provided by a television broadcast station; and, “other programming service” is information that a cable operator makes available to all Subscribers generally.

(g) “Cable System” or “System” shall have the meaning specified for “Cable System” in the Cable Act. Unless otherwise specified, it shall in this document refer to the Cable System constructed and operated in the City under this Franchise.

(h) “Channel” means a portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel as defined by the FCC by regulation.

(i) “City” shall mean the City of New Prague, a municipal corporation in the State of Minnesota.

(j) “City Code” means the Municipal Code of the City of New Prague, Minnesota, as may be amended from time to time.

(k) “Connection” means the attachment of the Drop to the television set of the Subscriber.

(l) “Converter” means an electronic device, including digital transport adapters, which converts signals to a frequency not susceptible to interference within the television receiver of a Subscriber, and by an appropriate Channel selector also permits a Subscriber to view all signals included in the Basic Cable Service tier delivered at designated converter dial locations.

(m) “Council” shall mean the governing body of the City.

- (n) “Day” unless otherwise specified shall mean a calendar day.
- (o) “Drop” shall mean the cable that connects the Subscriber terminal to the nearest feeder cable of the cable.
- (p) “Effective Date” shall mean sixty (60) Days from date of the City’s approval of this Franchise.
- (q) “Expanded Basic Service” means the next tier of service above the Basic Cable Service tier excluding premium or pay-per-view services.
- (r) “FCC” means the Federal Communications Commission, or a designated representative.
- (s) “Franchise” shall mean the right granted by this Franchise Ordinance and conditioned as set forth herein.
- (t) “Franchise Area” means the entire geographic area within the City as it is now constituted or may in the future be constituted.
- (u) “Franchise Fee” shall mean the fee assessed by the City to Grantee, determined in amount as a percentage of Grantee’s Gross Revenues and limited to the maximum percentage allowed for such assessment by federal law. The term Franchise Fee does not include the exceptions noted in 47 U.S.C. §542(g)(2)(A-E).
- (v) “GAAP” means generally accepted accounting principles as promulgated and defined by the Financial Accounting Standards Board (“FASB”), Emerging Issues Task Force (“EITF”) and/or the U.S. Securities and Exchange Commission (“SEC”).
- (w) “Gross Revenues” means any and all compensation in whatever form, from any source, derived directly or indirectly by Grantee or any Affiliate of Grantee or any other Person who would constitute a cable operator of the Cable System under the Cable Act, from the operation of the Cable System to provide Cable Service within the Franchise Area. Gross Revenues shall not be net of: (1) any operating expense or other expenditure; (2) any prior actual or claimed overpayment of Franchise or PEG Fees, or; (3) any accrual, including without limitation, for commissions. Gross Revenues includes, by way of illustration and not limitation:
- (i) monthly fees for Cable Services regardless of whether such Cable Services are provided to residential or commercial Subscribers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event, audio channels, and video-on-demand Cable Services);
 - (ii) installation, disconnection, reconnection, downgrade, upgrade, maintenance, repair or similar charges associated with Subscriber Cable Service levels;

(iii) fees paid to Grantee for Channels designated for commercial/ leased access use which shall be allocated on a pro rata basis using total Cable Service Subscribers within the Franchise Area;

(iv) Converter, remote control, and other Cable Service equipment rentals, leases, or sales;

(v) Payments for prepaid Cable Services and/or equipment;

(vi) Advertising revenues as defined herein;

(vii) Fees including, but not limited to:

1. late fees, convenience fees, administrative fees and other multiservice revenues, which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total Subscriber revenues within the Franchise Area;

2. revenues from program guides;

3. Franchise Fees;

4. FCC regulatory fees;

5. Except as provided in subsection (ix) below, any fee, tax, including without limitation, the City’s utility tax, or other charge assessed against Grantee by City, which Grantee chooses to pass through and collect from its Subscribers; and

6. commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service Subscribers within the City.

(viii) “Gross Revenues” shall include amounts earned by Affiliates only to the extent that Grantee could, in concept, have earned such types of revenue in connection with the operation of Grantee’s Cable System to provide Cable Services and recorded such types of revenue in its books and Records directly, but for the existence of Affiliates.

(ix) “Advertising Revenues” shall mean revenues derived from sales of advertising that are made available to Grantee’s Cable System Subscribers within the Franchise Area and shall be allocated on a pro rata basis using total Cable Service Subscribers reached by the advertising. Additionally, Grantee agrees that Gross Revenues subject to Franchise Fees shall include all commissions, representative fees, affiliated entity fees, or rebates paid to the National Cable Communications and Comcast Spotlight or their successors associated with sales of advertising on the Cable System within the City allocated according to this paragraph using total Cable Service subscribers reached by the advertising.

(x) “Gross Revenues” shall not include:

1. actual bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a *pro rata* basis using Cable Services revenue as a percentage of total Grantee revenues within the Franchise Area;
2. Public, Educational and Governmental (PEG) Fees; and
3. unaffiliated third party advertising sales agency fees which are reflected as a deduction from revenues.

(xi) To the extent revenues are received by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a *pro rata* basis when comparing the bundled service price and its components to the sum of the published rate card, except as required by specific federal, state or local law, it is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Grantee derives revenues in the City. The City reserves its right to review and to challenge Grantee’s calculations.

(xii) Grantee reserves the right to change the allocation methodologies set forth in paragraph (x) above to meet the standards mandated by the Financial Accounting Standards Board (“FASB”), Emerging Issues Task Force (“EITF”) and/or the U.S. Securities and Exchange Commission (“SEC”). Grantee will explain and document the required changes to the City as part of any audit or review of Franchise Fee payments, and any such changes shall be subject to subparagraph (xii) below.

(xiii) Resolution of any disputes over the classification of revenue should first be attempted by agreement of the parties, but should no resolution be reached, the parties agree that reference shall be made to GAAP as promulgated and defined by the FASB, EITF and/or the SEC. Notwithstanding the forgoing, the City reserves its right to challenge Grantee’s calculation of Gross Revenues, including the interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

(xiv) Subject to the provisions of subsection xiii, nothing in this definition of Gross Revenues shall in any way serve to waive the City’s right to receive the maximum five percent (5%) Franchise Fee as set forth in 47. U.S.C. Section 542, irrespective of whether the City chooses to receive its compensation in cash or in in-kind services, to the extent “in-kind” services are considered part of the 5% Franchise Fee cap under Applicable Law. Neither the Grantee nor the City waive any rights either party may have regarding enforcement of all rights set forth in 47. U.S.C. Section 542.

(x) “Minnesota Cable Communications Act” means the provisions of Minnesota law governing the requirements for a cable television franchise as set forth in Minn. Stat. Chapter 238, as may be amended.

(y) “Normal Business Hours” means those hours during which most similar businesses in City are open to serve customers. In all cases, “Normal Business Hours” must include some evening hours at least one (1) night per week and/or some weekend hours.

(z) “Normal Operating Conditions” means those Service conditions which are within the control of Grantee. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

(aa) “PEG” means public, educational and governmental.

(bb) “Person” means any natural person and all domestic and foreign corporations, closely-held corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, businesses, common law trusts, societies and/or any other legal entity.

(cc) “Street” shall mean the surface of and the space above and below any public Street, road, highway, freeway, lane, path, trail, public way, alley, court, sidewalk, boulevard, parkway, drive or any easement or right-of-way now or hereafter held by City which shall, within its proper use and meaning in the sole opinion of City, entitle Grantee to the use thereof for the purpose of installing or transmitting over poles, wires, cables, conductors, ducts, conduits, vaults, man-holes, amplifiers, appliances, attachments and other property as may be ordinarily necessary and pertinent to a Cable System.

(dd) “Subscriber” means a Person who lawfully receives Cable Service.

(ee) “Wireline MVPD” means a multichannel video programming distributor that utilizes the Streets to install cable or fiber and is engaged in the business of making available for purchase, by Subscribers, multiple Channels of video programming in the City.

SECTION 2 FRANCHISE

2.1 Grant of Franchise. The City hereby authorizes Grantee to occupy or use the City’s Streets to construct and operate a Cable System subject to: 1) the provisions of this non-exclusive Franchise to provide Cable Service within the City; and 2) all applicable provisions of the City Code. Nothing in this Franchise shall be construed to prohibit Grantee from providing services other than Cable Services to the extent not prohibited by Applicable Law; or The City

hereby reserves all of its rights to regulate such other services to the extent not prohibited by Applicable Law and no provision herein shall be construed to limit or give up any right to regulate.

2.2 Reservation of Authority. The Grantee specifically agrees to comply with the lawful provisions of the City Code and applicable regulations of the City. Subject to the police power exception below, in the event of a conflict between A) the lawful provisions of the City Code or applicable regulations of the City and B) this Franchise, the express provisions of this Franchise shall govern. Subject to express federal and state preemption, the material terms and conditions contained in this Franchise may not be unilaterally altered by the City through subsequent amendments to the City Code, ordinances or any regulation of City, except in the lawful exercise of City’s police power. Grantee acknowledges that the City may modify its regulatory policies by lawful exercise of the City’s police powers throughout the term of this Franchise. Grantee agrees to comply with such lawful modifications to the City Code; however, Grantee reserves all rights it may have to challenge such modifications to the City Code. The City reserves all of its rights and defenses to such challenges. Nothing in this Franchise shall (A) abrogate the right of the City to perform any public works or public improvements of any description, (B) be construed as a waiver of any codes or ordinances of general applicability promulgated by the City, or (C) be construed as a waiver or release of the rights of the City in and to the Streets.

2.3 Franchise Term. The term of the Franchise shall be ten (10) years from the Effective Date, unless extended by mutual written consent in accordance with Section 16.7 or terminated sooner in accordance with this Franchise.

2.4 Franchise Area. This Franchise is granted for the Franchise Area defined herein. Grantee shall extend its Cable System to provide Service to any residential unit in the City in accordance with Section 6.7 herein.

2.5 Franchise Nonexclusive. The Franchise granted herein shall be nonexclusive. The City specifically reserves the right to grant, at any time, such additional franchises for a Cable System as it deems appropriate provided, however, such additional grants shall not operate to materially modify, revoke, or terminate any rights previously granted to Grantee other than as described in Section 16.22. The grant of any additional franchise shall not of itself be deemed to constitute a modification, revocation, or termination of rights previously granted to Grantee. Any additional cable franchise grants shall comply with Minn. Stat. § 238.08 and any other applicable federal level playing field requirements.

2.6 Periodic Public Review of Franchise. Within sixty (60) Days of the third (3rd) and sixth (6th) annual anniversary of the Effective Date of this Franchise, the City may conduct a public review of the Franchise. The purpose of any such review shall be to ensure, with the benefit of full opportunity for public comment, that the Grantee continues to effectively serve the public in the light of new developments in cable law and regulation, cable technology, cable company performance with the requirements of this Franchise, local regulatory environment, community needs and interests, and other such factors. Both the City and Grantee agree to make a full and good faith effort to participate in the review. So long as Grantee receives reasonable notice, Grantee shall participate in the review process and shall fully cooperate. The review shall not

operate to modify or change any provision of this Franchise without mutual written consent in accordance with Section 17.7 of this Franchise.

2.7 Transfer of Ownership.

(a) No sale, transfer, assignment or “fundamental corporate change”, as defined in Minn. Stat. § 238.083, of this Franchise shall take place until the parties to the sale, transfer, or fundamental corporate change files a written request with City for its approval, provided, however, that said approval shall not be required where Grantee grants a security interest in its Franchise and assets to secure an indebtedness.

(b) City may determine that a public hearing is necessary due to potential adverse effect on Grantee’s Subscribers resulting from the sale or transfer.

(c) If a public hearing is deemed necessary pursuant to (b) above, such hearing shall be commenced within thirty (30) Days of such determination and notice of any such hearing shall be given in accordance with local law. The notice shall contain the date, time and place of the hearing and shall briefly state the substance of the action to be considered by City.

(d) City shall approve or deny in writing the sale or transfer request. City shall set forth in writing with particularity its reason(s) for denying approval. City shall not unreasonably withhold its approval.

(e) The parties to a sale or transfer of the Franchise only, without the inclusion of the System in which substantial construction has commenced, shall establish that the sale or transfer of only the Franchise will be in the public interest.

(f) Any sale or transfer of stock in Grantee so as to create a new controlling interest in the System shall be subject to the requirements of this Section 2.7. The term “controlling interest” as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

(g) In no event shall a transfer or assignment of ownership or control be approved without the transferee becoming a signatory to this Franchise and assuming all rights and obligations thereunder, and assuming all other rights and obligations of the transferor to the City.

(h) In accordance with Minn. Stat. § 238.084, Subd. 1(y), the City shall have the right to purchase the System in the event the Franchise or System is proposed to be transferred or sold on the same terms and conditions as the offer pursuant to which transfer notice was provided pursuant to this section. The City shall have thirty (30) Days from receipt of an application for consent under this Section 2.7 in which to give notice of its intention to exercise such right.

2.8 Expiration. Upon expiration of the Franchise, the City may, subject to Grantee’s rights under Section 626 of the Cable Act:

- (a) extend the Franchise, though nothing in this provision shall be construed to require such extension;
- (b) renew the Franchise, in accordance with Applicable Laws;
- (c) invite additional franchise applications or proposals;
- (d) terminate the Franchise subject to any rights Grantee has under Section 626 of the Cable Act; or
- (e) take such other action as is deemed appropriate in compliance with Applicable Law.

2.9 Right to Require Removal of Property. At the expiration of the term for which the Franchise is granted provided no renewal is granted, or upon its forfeiture or revocation as provided for herein, the City shall have the right to require Grantee to remove at Grantee’s own expense all or any part of the Cable System from all Streets and public ways within the Franchise Area within a reasonable time. If Grantee fails to do so, the City may perform the work and collect the cost thereof from Grantee. However, Grantee shall have no obligation to remove the Cable System where it utilizes the System to provide other non-Cable Services to the extent Grantee has authority under Applicable Law to maintain facilities in the Streets, and subject to Grantee’s obligation to apply for and secure a right-of-way permit from the City, if applicable.

2.10 Continuity of Service Mandatory. It shall be the right of all Subscribers to receive all available services insofar as their financial and other obligations to Grantee are honored. Grantee shall make its best effort to ensure that all Subscribers receive continuous uninterrupted service, regardless of the circumstances, during the lifetime of the Franchise. In the event of expiration, purchase, lease-purchase, condemnation, acquisition, taking over or holding of plant and equipment, sale, lease, or other transfer to any other Person, including any other grantee of a cable communications franchise, the current Grantee shall cooperate fully to operate the System in accordance with the terms and conditions of this Franchise for a temporary period sufficient in length to maintain continuity of service to all Subscribers.

SECTION 3 OPERATION IN STREETS AND RIGHTS-OF-WAY

3.1 Use of Streets.

(a) Grantee may, subject to the terms of this Franchise and the City Code, erect, install, construct, repair, replace, reconstruct and retain in, on, over, under, upon, across and along the Streets within the City such lines, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a Cable System within the City. Without limiting the foregoing, Grantee expressly agrees that it will construct, operate and maintain its Cable System in compliance with, and subject to, the requirements of the City Code, including by way of example and not limitation, those requirements governing the placement of Grantee’s Cable System; and with other applicable City Codes, and will

obtain and maintain all permits and bonds required by the City Code in addition to those required in this Franchise.

(b) All wires, conduits, cable and other property and facilities of Grantee shall be so located, constructed, installed and maintained as not to endanger or unnecessarily interfere with the usual and customary trade, traffic and travel upon, or other use of the Streets of City. Grantee shall keep and maintain all of its property in good condition, order and repair so that the same shall not menace or endanger the life or property of any Person. Grantee shall keep accurate maps and records of all of its wires, conduits, cables and other property and facilities located, constructed and maintained in the City.

(c) All wires, conduits, cables and other property and facilities of Grantee, shall be constructed and installed in an orderly and professional manner in accordance with all Applicable Laws. All wires, conduits and cables shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.

3.2 Construction or Alteration. Grantee shall in all cases comply with applicable sections of the City Code, City resolutions and City regulations regarding the acquisition of permits and/or such other items as may be reasonably required in order to construct, alter or maintain the Cable System. Grantee shall, upon request, provide information to the City regarding its progress in completing or altering the Cable System.

3.3 Non-Interference. Grantee shall exert its best efforts to construct and maintain a Cable System so as not to interfere with other use of Streets. Grantee shall, where possible in the case of above ground lines, make use of existing poles and other facilities available to Grantee. When residents receiving underground service or who will be receiving underground service will be affected by proposed construction or alteration, Grantee shall provide such notice as set forth in the permit or in City Code of the same to such affected residents.

3.4 Consistency with Designated Use. Notwithstanding the above grant to use Streets, no Street shall be used by Grantee if the City, in its sole opinion, determines that such use is inconsistent with the terms, conditions or provisions by which such Street was created or dedicated, or presently used under Applicable Laws.

3.5 Undergrounding.

(a) Grantee shall place underground all of its transmission lines which are located or are to be located above or within the Streets of the City in the following cases:

- (i) all other existing utilities are required to be placed underground by statute, resolution, policy or other Applicable Law;
- (ii) Grantee is unable to get pole clearance;
- (iii) underground easements are obtained from developers of new residential areas; or

(iv) utilities are overhead but residents prefer underground (undergrounding to be at cost paid by benefited residents).

(b) If an ordinance is passed which involves placing underground certain utilities including Grantee's cable plant which is then located overhead, Grantee shall participate in such underground project and shall remove poles, cables and overhead wires if requested to do so and place facilities underground. Nothing herein shall mandate that City provide reimbursement to Grantee for the costs of such relocation and removal. However, if the City makes available funds for the cost of placing facilities underground, nothing herein shall preclude the Grantee from participating in such funding to the extent consistent with the City Code or Applicable Laws.

(c) Grantee shall use conduit or its functional equivalent to the greatest extent possible for undergrounding, except for Drops from pedestals to Subscribers' homes and for cable on other private property where the owner requests that conduit not be used. Cable and conduit shall be utilized which meets the highest industry standards for electronic performance and resistance to interference or damage from environmental factors. Grantee shall use, in conjunction with other utility companies or providers, common trenches for underground construction wherever available.

3.6 Maintenance and Restoration.

(a) Restoration. In case of disturbance of any Street, public way, paved area or public improvement, Grantee shall, at its own cost and expense and in accordance with the requirements of the City Code restore such Street, public way, paved area or public improvement to substantially the same condition as existed before the work involving such disturbance took place. All requirements of this section pertaining to public property shall also apply to the restoration of private easements and other private property. Grantee shall perform all restoration work within a reasonable time and with due regard to seasonal working conditions, but not to exceed ninety (90) Days. If Grantee fails, neglects or refuses to make restorations as required under this section, then the City may do such work or cause it to be done, and the cost thereof to the City shall be paid by Grantee. If Grantee causes any damage to private property in the process of restoring facilities, Grantee shall repair such damage.

(b) Maintenance. Grantee shall maintain all above ground improvements that it places on City Streets pursuant to the City Code and any permit issued by the City. In order to avoid interference with the City's ability to maintain the Streets, Grantee shall provide such clearance as is required by the City Code and any permit issued by the City. If Grantee fails to comply with this provision, and by its failure, property is damaged Grantee shall be responsible for all damages caused thereby.

(c) Disputes. In any dispute over the adequacy of restoration or maintenance relative to this section, final determination shall be the prerogative of the City, Department of Public Works, and consistent with the City Code and any permit issued by the City.

3.7 Work on Private Property. Grantee, with the consent of property owners, shall have the authority, pursuant to the City Code, to trim trees upon and overhanging Streets, alleys, sidewalks, and public ways so as to prevent the branches of such trees from coming in contact with the wires and cables of Grantee, except that at the option of the City, such trimming may be done by it or under its supervision and direction at the reasonable expense of Grantee.

3.8 Relocation.

(a) **Public Property.** Grantee shall relocate its System and facilities in accordance with the City Code. In addition, if, during the term of the Franchise, the City or any government entity elects or requires a third party to alter, repair, realign, abandon, improve, vacate, reroute or change the grade of any Street, public right-of-way or other public property; or to construct, maintain or repair any public improvement; or to replace, repair install, maintain, or otherwise alter any cable, wire conduit, pipe, line, pole, wire-holding structure, structure, or other facility, including a facility used for the provision of utility or other services or transportation of drainage, sewage or other liquids, for any public purpose, Grantee shall, upon request, except as otherwise hereinafter provided, at its sole expense remove or relocate as necessary its poles, wires, cables, underground conduits, vaults, pedestals, manholes and any other facilities which it has installed. Nothing herein shall mandate that City provide reimbursement to Grantee for the costs of such relocation and removal. However, if the City makes available funds for the cost of placing facilities underground, nothing herein shall preclude the Grantee from participating in such funding to the extent consistent with the City Code or Applicable Laws.

(b) **Utilities and Other Franchisees.** If, during the term of the Franchise, another entity which holds a franchise or any utility requests Grantee to remove or relocate such facilities to accommodate the construction, maintenance or repair of the requesting party’s facilities, or their more efficient use, or to “make ready” the requesting party’s facilities for use by others, or because Grantee is using a facility which the requesting party has a right or duty to remove, Grantee shall do so. The companies involved may decide among themselves who is to bear the cost of removal or relocation, pursuant to City Code, and provided that the City shall not be liable for such costs.

(c) **Notice to Remove or Relocate.** Any Person requesting Grantee to remove or relocate its facilities shall give Grantee no less than forty-five (45) Days’ advance written notice to Grantee advising Grantee of the date or dates removal or relocation is to be undertaken; provided, that no advance written notice shall be required in emergencies or in cases where public health and safety or property is endangered.

(d) **Failure by Grantee to Remove or Relocate.** If Grantee fails, neglects or refuses to remove or relocate its facilities as directed by the City; or in emergencies or where public health and safety or property is endangered, the City may do such work or cause it to be done, and the cost thereof to the City shall be paid by Grantee. If Grantee fails, neglects or refuses to remove or relocate its facilities as directed by another franchisee or utility, that franchisee or utility may do such work or cause it to be done, and if Grantee would have been liable for the cost of performing such work, the cost thereof to the party performing the work or having the work performed shall be paid by Grantee.

(e) Procedure for Removal of Cable. Grantee shall not remove any underground cable or conduit which requires trenching or other opening of the Streets along the extension of cable to be removed, except as hereinafter provided. Grantee may remove any underground cable from the Streets which has been installed in such a manner that it can be removed without trenching or other opening of the Streets along the extension of cable to be removed. Subject to Applicable Law, Grantee shall remove, at its sole cost and expense, any underground cable or conduit by trenching or opening of the Streets along the extension thereof or otherwise which is ordered to be removed by the City based upon a determination, in the sole discretion of the City, that removal is required in order to eliminate or prevent a hazardous condition. Underground cable and conduit in the Streets which is not removed shall be deemed abandoned and title thereto shall be vested in the City.

(f) Movement of Buildings. Grantee shall, upon request by any Person holding a building moving permit, franchise or other approval issued by the City, temporarily remove, raise or lower its wire to permit the movement of buildings. The expense of such removal, raising or lowering shall be paid by the Person requesting same, and Grantee shall be authorized to require such payment in advance. The City shall require all building movers to provide not less than fifteen (15) Days' notice to the Grantee to arrange for such temporary wire changes.

SECTION 4 REMOVAL OR ABANDONMENT OF SYSTEM

4.1 Removal of Cable System. In the event that: (1) the use of the Cable System is discontinued for any reason for a continuous period of twelve (12) months; or (2) the Cable System has been installed in a Street without complying with the requirements of this Franchise, Grantee, at its expense shall, at the demand of the City remove promptly from the Streets all of the Cable System other than any which the City may permit to be abandoned in place. In the event of any such removal Grantee shall promptly restore the Street to a condition as nearly as possible to its prior condition the Street or other public places in the City from which the System has been removed in accordance with all requirements of the City Code and Section 2.9 herein. However, Grantee shall have no obligation to remove the Cable System where it utilizes the system to provide other non-Cable Services and has any other authority under Applicable Law to maintain facilities in the public rights-of-way, or where Grantee is able to find a purchaser of the Cable System, acceptable to the City, who holds such authorization.

4.2 Abandonment of Cable System. In the event of Grantee's abandonment of the Cable System, City shall have the right to require Grantee to conform to the state right-of-way rules, Minn. Rules, Chapter 7819. The Cable System to be abandoned in place shall be abandoned in the manner prescribed by the City. Grantee may not abandon any portion of the System without having first given three (3) months written notice to the City. Grantee may not abandon any portion of the System without compensating the City for damages resulting from the abandonment.

4.3 Removal after Abandonment or Termination. If Grantee has failed to commence removal of System, or such part thereof as was designated by City, within thirty (30) Days after written notice of City's demand for removal consistent with Minn. Rules, Ch. 7819, is given, or if Grantee has failed to complete such removal within twelve (12) months after written

notice of City’s demand for removal is given, City shall have the right to apply funds secured by the letter of credit and performance bond toward removal and/or declare all right, title, and interest to the Cable System to be in City with all rights of ownership including, but not limited to, the right to operate the Cable System or transfer the Cable System to another for operation by it.

4.4 City Options for Failure to Remove Cable System.

(a) If Grantee has failed to complete such removal within the time given after written notice of the City’s demand for removal is given, the City shall have the right to exercise one of the following options:

(i) Declare all right, title and interest to the System to be in the City or its designee with all rights of ownership including, but not limited to, the right to operate the System or transfer the System to another for operation by it; or

(ii) Declare the System abandoned and cause the System, or such part thereof as the City shall designate, to be removed at no cost to the City. The cost of said removal shall be recoverable from the security fund, indemnity and penalty section provided for in this Franchise or from Grantee directly.

(b) Upon termination of service to any Subscriber, Grantee shall promptly remove all its facilities and equipment from within the dwelling of a Subscriber who owns such dwelling upon his or her written request, except as provided by Applicable Law. Such Subscribers shall be responsible for any costs incurred by Grantee in removing the facilities and equipment.

4.5 System Construction and Equipment Standards. The Cable System shall be installed and maintained in accordance with standard good engineering practices and shall conform, when applicable to the National Electrical Safety Code, the National Electrical Code and the FCC’s Rules and Regulations.

4.6 System Maps and Layout. Grantee shall maintain complete and accurate system maps, which shall include trunks, distribution lines, and nodes. Such maps shall include up-to-date route maps showing the location of the Cable System adjacent to the Streets. Grantee shall make all maps available for review by the appropriate City personnel. City agrees keep the information confidential to the extent permitted by Applicable Law as set forth in Section 12.3 of this Franchise if it is designated so by Grantee.

**SECTION 5
SYSTEM DESIGN AND CAPACITY**

5.1 Availability of Signals and Equipment.

(a) The Cable System utilizes a fiber to the fiber node architecture, with fiber optic cable deployed from Grantee’s headend to Grantee’s fiber nodes, tying into Grantee’s coaxial Cable System serving Subscribers. The System is currently passing a minimum of 750 MHz (with a minimum passband of between 50 and 750 MHz) and shall be capable of providing to Subscribers at least two hundred (200) or more activated minimum

downstream video Channels, or such comparable video viewing capability as is provided in light of developing technologies and video distribution practices in the future.

(b) The entire System shall be technically capable of transmitting industry-standard digital television signals in a manner and quality consistent with applicable FCC regulations.

(c) Grantee agrees to maintain the Cable System in a manner consistent with, or in excess of the specifications in Section 5.1 (a) and (b) throughout the term of the Franchise with sufficient capability and technical quality to enable the implementation and performance of all the requirements of this Franchise, including the exhibits hereto, and in a manner which meets or exceeds FCC technical quality standards at 47 C.F.R. § 76 Subpart K, regardless of the particular format in which a signal is transmitted.

5.2 System Specifications.

(a) System Maintenance. In all its construction and service provision activities, Grantee shall meet or exceed the construction, technical performance, extension and service requirements set forth in this Franchise.

(b) Emergency Alert Capability. At all times during the term of this Franchise, Grantee shall provide and maintain an Emergency Alert System (EAS) consistent with applicable Federal law and regulations including 47 C.F.R., Part 11, and any Minnesota State Emergency Alert System requirements. The City may identify authorized emergency officials for activating the EAS insofar as the City’s process is consistent with the Minnesota State Emergency Statewide Plan (“EAS Plan”). The City may also develop a local plan containing methods of EAS message distribution, insofar as the local plan is consistent with Applicable Laws and the EAS Plan.

(c) Standby Power. Grantee shall provide standby power generating capacity at the Cable System control center and at all hubs. Grantee shall maintain standby power system supplies, rated at least at two (2) hours’ duration, throughout the trunk and distribution networks. In addition, Grantee shall have in place throughout the Franchise term a plan, and all resources necessary for implementation of the plan, for dealing with outages of more than two (2) hours.

(d) Technical Standards. The technical standards used in the operation of the Cable System shall comply, at minimum, with the technical standards promulgated by the FCC relating to Cable Systems pursuant to Title 47, Section 76, Subpart K of the Code of Federal Regulations, as may be amended or modified from time to time, which regulations are expressly incorporated herein by reference. The Cable System shall be installed and maintained in accordance with standard good engineering practices and shall conform with the National Electrical Safety Code and all other Applicable Laws governing the construction of the Cable System and in such manner that the Cable System shall not interfere with any installations of the City.

5.3 Performance Testing. Grantee shall perform all system tests at the intervals required by the FCC, and all other tests reasonably necessary to determine compliance with technical standards required by this Franchise. These tests shall include, at a minimum:

- (a) Tests required by the City to demonstrate Franchise compliance; and
- (b) Written records of all system test results performed by or for Grantee shall be maintained as required by FCC regulations, and shall be available for City inspection upon request.

5.4 Special Testing.

(a) Throughout the term of this Franchise, City shall have the right to inspect all construction or installation work performed pursuant to the provisions of the Franchise. In addition, City may require special testing of a location or locations within the System if there is a particular matter of controversy or unresolved complaints regarding such construction or installation work or pertaining to such location(s). Demand for such special tests may be made on the basis of complaints received or other evidence indicating an unresolved controversy or noncompliance. Such tests shall be limited to the particular matter in controversy or unresolved complaints. City shall endeavor to so arrange its request for such special testing so as to minimize hardship or inconvenience to Grantee or to the Subscribers caused by such testing.

(b) Before ordering such tests, Grantee shall be afforded thirty (30) Days following receipt of written notice to investigate and, if necessary, correct problems or complaints upon which tests were ordered. City shall meet with Grantee prior to requiring special tests to discuss the need for such and, if possible, visually inspect those locations which are the focus of concern. If, after such meetings and inspections, City wishes to commence special tests and the thirty (30) Days have elapsed without correction of the matter in controversy or unresolved complaints, the tests shall be conducted at Grantee's expense by Grantee's qualified engineer. The City shall have a right to participate in such testing by having an engineer of City's choosing, and at City's expense, observe and monitor said testing.

SECTION 6 PROGRAMMING AND SERVICES

6.1 Categories of Programming Service. Grantee shall provide video programming services in at least the following broad categories:

- (a) Local Broadcast (subject to federal carriage requirements)
- (b) Public Broadcast
- (c) News and Information
- (d) Sports
- (e) General Entertainment
- (f) Arts/Performance/Humanities
- (g) Science/Technology
- (h) Children/Family/Seniors
- (i) Foreign Language/Ethnic Programming

- (j) PEG Access Programming (to the extent required by the Franchise)
- (k) Movies

6.2 Changes in Programming Services. Grantee shall provide at least thirty (30) Days' prior written notice to Subscribers and to the City of Grantee's request to effectively delete any broad category of programming or any Channel within its control, including all proposed changes in Channel allocation and any assignments including any new equipment requirements that may occur as a result of these changes, in accordance with Applicable law.

6.3 Parental Control Device or Capability. Upon request by any Subscriber, Grantee shall make available a parental control or lockout device or functionality that will enable the Subscriber to block all access to any and all Channels without affecting those not blocked. Grantee shall inform Subscribers of the availability of the lockout device or functionality at the time of original subscription and annually thereafter.

6.4 FCC Reports. The results of any tests required to be filed by Grantee with the FCC shall also be copied to City within ten (10) Days of the conduct of the date of the tests.

6.5 Connection of Public Facilities.

(a) The parties acknowledge that as of the Effective Date of this Franchise, Grantee continues to provide Complimentary Services to certain schools, libraries and public institutions within the Franchise Area as set forth in Exhibit A.

(b) In the event Grantee elects, to the extent permitted by Applicable Laws, to deduct the cost of Complimentary Services from Franchise Fees, the Grantee agrees that it will do so only after providing City with ninety (90) days prior written notice. The charges shall be consistent with Applicable Law, at the time of this writing defined as the "marginal cost." Grantee will disclose in writing the amount it calculates to be due under Applicable Law and shall arrange with City for deductions from the Franchise Fee. Charges may include those for services and equipment, if any, at each location and all applicable fees and taxes and shall be subject to adjustment at a time consistent with Grantee's retail adjustments. City may remove locations or change the level of cable service indicated on Exhibit A with 30-days written notice to Grantee.

(c) Grantee agrees not to unfairly or unreasonably discriminate against the City with respect to other Minnesota served local franchising authorities, with respect to the costs to be imposed for Complimentary Services.

6.6 Annexation. Unless otherwise provided by Applicable Law, including the City Code, upon the annexation of any additional land area by City, the annexed area shall thereafter be subject to all the terms of this Franchise upon sixty (60) Days written notification to Grantee of the annexation by City. Unless otherwise required by Applicable Laws, nothing herein shall require the Grantee to expand its Cable System to serve, or to offer Cable Service to any area annexed by the City if such area is then served by another Wireline MVPD franchised to provide multichannel video programming.

6.7 Line Extension.

(a) Grantee shall construct and operate its Cable System so as to provide Cable Service within the Franchise Area where there exists a density equivalent of seven (7) dwelling units per one-quarter (1/4) mile of feeder cable as measured from the nearest active plant of the Cable System if the extension is to be constructed using aerial plant, and nine (9) dwelling units per one-quarter (1/4) mile of feeder cable as measured from the nearest active plant if the extension is to be constructed using underground plant. The City, for its part, shall endeavor to exercise reasonable efforts to require developers and utility companies to provide the Grantee with at least fifteen (15) Days advance notice of an available open trench for the placement of necessary cable.

(b) Where the density is less than specified above, Grantee shall inform Persons requesting Service of the possibility of paying for installation or a line extension and shall offer to provide them with a free written estimate of the cost. Grantee shall at all times implement such line extension policy in a nondiscriminatory manner throughout the City.

(c) Any residential unit located within one hundred twenty-five (125) feet from the nearest point of access on the Street from which the Cable System is designed to serve the site shall be connected to the Cable System at no charge other than the standard installation charge. Grantee shall, upon request by any potential Subscriber residing in City beyond the one hundred twenty-five (125) foot limit, extend service to such Subscriber provided that the Subscriber shall pay the net additional Drop costs, unless the Grantee agrees to waive said costs. To the extent consistent with Applicable Laws, Grantee agrees that it shall impose installation costs for non-standard installations in a uniform and nondiscriminatory manner throughout the City.

6.8 Nonvoice Return Capability. Grantee is required to use cable and associated electronics having the technical capacity for nonvoice return communications.

SECTION 7 PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS

7.1 Number of PEG Access Channels.

(a) Grantee will make available a minimum of one (1) PEG Access Channels for the Franchise term in standard definition (“SD”) format. Grantee shall provide the PEG Access Channel on the Basic Cable Service tier.

(b) PEG Access Channels and programming may be delivered by City to Grantee in SD or high definition (“HD”) format as set forth herein. Grantee shall provide all necessary transmission equipment from the demarcation point and throughout Grantee’s distribution system, in order to deliver the PEG Access Channels to Subscribers. PEG Access Channel signals delivered in HD format to Grantee shall not require Grantee to deliver such HD signals to Subscribers except as set forth in this Section 7.

(c) Grantee will continue to carry the PEG Access Channel in SD format as long as there are SD Channels in Grantee’s Basic Cable Service tier. If Grantee discontinues carriage of SD Channels, all of the PEG Access Channels shall be carried in HD format.

7.2 High Definition PEG Access Channels.

(a) After the Effective Date, and upon sixty (60) Days' written notice from the City and the satisfaction of the requirement in Section 7.2(b) Grantee shall provide the City with one (1) PEG Access Channel in HD. The HD PEG Access Channel will be carried on the Cable System without degradation. Following implementation of the HD PEG Access Channel as set forth in this Section 7.2 (a), Grantee will maintain the one (1) SD PEG Access Channel required by Section 7.1 resulting in one (1) SD PEG Access Channel and one (1) HD PEG Access Channel.

(b) Included in the City's notice required in Section 7.2(a), the City must attest that it has local, noncharacter generated programming available in HD format so as to provide content of value to viewers and not have a blank HD channel.

(c) The City acknowledges that receipt of an HD format PEG Access Channel may require Subscribers to buy or lease special equipment, or pay additional HD charges applicable to all HD services.

(d) Any costs of end-user equipment associated with the delivery of SD PEG channels in HD format beyond the demarcation point shall be borne by the City.

(e) The City is responsible for acquiring all equipment necessary to produce programming in HD.

(f) Grantee shall have the right to use any technology to deploy or deliver HD signals (including selection of compression, utilization of IP and other processing characteristics) so long as it produces signal quality for the consumer that is reasonably comparable (from the viewer's standpoint) and functionally equivalent to similar commercial HD signals carried on the cable system.

7.3 Control of PEG Access Channels. The control and administration of the PEG Access Channels shall rest with the City. The City may delegate, from time to time over the term of this Franchise, such control and administration to various entities as determined in City's sole discretion.

7.4 Transmission of Access Channels. PEG Access Channels may be used for transmission of non-video signals in compliance with Applicable Laws. This may include downstream transmission of data using a protocol such as TCP/IP or current industry standards. Should Grantee develop the capability to provide bi-directional data transmission, spectrum capacity shall be sufficient to allow Subscribers to transmit data to PEG facilities.

7.5 PEG Access Channel Locations.

(a) PEG Access Channels shall be carried on the Basic Cable Service tier as set forth in Section 7.1 herein. Nothing herein precludes the Grantee from charging for equipment needed for Basic Cable Service. Grantee shall make every reasonable effort to coordinate cablecasting PEG Access programming on the Cable System on the same Channel designations as such programming is cablecast within the City as of the Effective

Date. In no event shall any PEG Access Channel reallocations be made prior to ninety (90) Days written notice to the City by Grantee, except for circumstances beyond Grantee's reasonable control. The PEG Access Channels are presently located on Channels 14 and 15.

(b) Grantee agrees not to encrypt the PEG Access Channels differently than other commercial Channels available on the Cable System.

(c) Grantee shall make reasonable efforts to minimize Channel movements for PEG Access Channels and shall make reasonable efforts to locate PEG Access Channels in its lineup in a manner that is easily accessible to Subscribers. The HD Access Channel shall be assigned a number near other HD local broadcast stations, or, if such location is unavailable, near HD news/public affairs programming. In the event a PEG Access Channel is moved, Grantee, at Grantee's expense, will place City's notices of the PEG Access Channel change on its regular monthly billings, upon City's request.

(d) In conjunction with any occurrence of any SD PEG Access Channel(s) relocation, Grantee shall provide up to One Thousand and Five Hundred Dollars (\$1,500) of reimbursement for costs incurred by City to promote the new Channel locations.

7.6 Navigation to PEG Access Channels/Electronic Programming Guide. Grantee agrees that if it utilizes a visual interface under its control on its Cable System for all Channels, the PEG Access Channels shall be treated in a non-discriminatory fashion consistent with Applicable Laws so that Subscribers will have ready access to PEG Access Channels. Grantee will continue to make available to City the ability to place PEG Access Channel programming information on the interactive channel guide via the electronic programming guide ("EPG") vendor ("EPG provider") that Grantee utilizes to provide the guide service. Grantee will be responsible for providing the designations and instructions necessary for the PEG Access Channels to appear on the EPG. All costs and operational requirements of the EPG provider shall be the responsibility of the City. City acknowledges that the EPG is not technically possible for all PEG Access programming, and that Grantee is not responsible for operations of the EPG provider.

7.7 Ownership of PEG Access Channels. Grantee does not relinquish its ownership of or ultimate right of control over a Channel by designating it for PEG use. A PEG access user – whether an individual, educational or governmental user – acquires no property or other interest by virtue of the use of a Channel position so designated. Grantee shall not exercise editorial control over any public, educational, or governmental use of a Channel position, except Grantee may refuse to transmit any public access program or portion of a public access program that contains obscenity, indecency, or nudity in violation of Applicable Law.

7.8 Noncommercial Use of PEG. Permitted noncommercial uses of the PEG Access Channels shall include by way of example and not limitation: (1) the identification of financial supporters similar to what is provided on public broadcasting stations; or (2) the solicitation of financial support for the provision of PEG programming by the City or third party users for charitable, educational or governmental purposes; or (3) programming offered by accredited, non-profit, educational institutions which may, for example, offer telecourses over a PEG Access Channel.

7.9 PEG Transport. Grantee shall maintain all existing System connections or paths for PEG transport in the City. Such transports are listed in Exhibit A attached hereto. To the extent specifically authorized by Applicable Law, Grantee shall have the right to recoup the marginal cost of maintaining the PEG transport as set forth in this Section 7.9. Grantee may begin invoicing the City for such maintenance costs in accordance with the terms of Section 6.5(b) herein.

7.10 Ancillary Equipment. Any ancillary equipment operated by Grantee for the benefit of PEG Access Channels on Grantee’s fiber paths or Cable System, whether referred to switchers, routers or other equipment, will be maintained by Grantee, at no cost to the City or schools for the life of the Franchise. Grantee is responsible for any ancillary equipment on its side of the demarcation point and the City or school is responsible for all other production/playback equipment.

7.11 Future Fiber Return Lines for PEG.

- (a) At such time that the City determines:
 - (i) that the City desires the capacity to allow Subscribers in the City to receive PEG programming (video or character generated) which may originate from schools, City facilities, other government facilities or other designated facilities (other than those indicated in paragraph 7.9); or
 - (ii) that the City desires to establish or change a location from which PEG programming is originated; or
 - (iii) that the City desires to upgrade the connection to Grantee from an existing signal point of origination,

the City may elect to give Grantee written notice detailing the point of origination and the capability sought by the City. The cost estimate shall not exceed the fair market value of the requested facility. After an agreement to reimburse Grantee for Grantee’s out of pocket time and material costs, Grantee will implement any necessary Cable System changes within a reasonable period of time. Nothing herein prevents the City, or a private contractor retained by the City, from constructing said return fiber. Grantee agrees that it shall not impose any recurring charge for the use of connections/ facilities.

7.12 PEG Access Channel Carriage.

- (a) Grantee shall provide all necessary transmission equipment, at no cost to the City, from the demarcation point and throughout Grantee’s distribution system in order to deliver the PEG Access Channels. Any and all costs associated with any modification of the PEG Access Channels or signals after the PEG Access Channels/ signals leave the City’s designated playback facilities, or any designated playback center authorized by the City shall be borne entirely by Grantee. Grantee shall not cause any programming to override PEG programming on any PEG Access Channel, except by oral or written permission from the City, with the exception of emergency alert signals.

(b) The City may request and Grantee shall provide an additional PEG Access Channel when the cumulative time on all the existing PEG Access Channels combined meets the following standard: whenever one (1) of the PEG Access Channels in use during eighty percent (80%) of the weekdays, Monday through Friday, for eighty percent (80%) of the time during a consecutive three (3) hour period for six (6) weeks running, and there is a demand for use of an additional Channel for the same purpose, the Grantee has six (6) months in which to provide a new, PEG Access Channel for the same purpose; provided that, the provision of the additional Channel or Channels does not require the Cable System to install Converters.

(c) The VHF spectrum shall be used for one (1) of the public, educational, or governmental specially designated PEG Access Channels.

(d) The City or its designee shall be responsible for developing, implementing, interpreting and enforcing rules for PEG Access Channel use.

(e) The Grantee shall monitor the PEG Access Channels for technical quality to ensure that they meet FCC technical standards including those applicable to the carriage of PEG Access Channels, provided however, that the Grantee is not responsible for the production quality of PEG programming productions. The City, or its designee, shall be responsible for the production and quality of all PEG access programming. Grantee shall carry all components of the standard definition of PEG Access Channel including, but not limited to, closed captioning, stereo audio and other elements associated with the programming.

7.13 PEG Fee.

(a) The City, upon a vote of the City Council, may elect to require Grantee to pay to the City a one-time lump sum not to exceed four thousand three hundred fifty six dollars (\$4,356.00), that may be inflated by 3% annually beginning on the effective date of this Franchise, to be used only for PEG capital purchases (“PEG Payment”). In the event the City requires the PEG Payment, the Grantee may collect an amount itemized on customer invoices as a “PEG Fee” to reimburse Grantee for the PEG Payment. In no case shall the PEG Fee exceed One Dollar (\$1) per Subscriber per month provided, however, that if the City does not exercise its option to require a PEG Payment within the first three (3) years following the Effective Date the City acknowledges that the Grantee’s collection of the PEG Fee may extend beyond the expiration of this Franchise so that Grantee may fully recoup the PEG Payment.

(b) The PEG Payment may be used by City for PEG Capital purchases in accordance with Applicable Law.

(c) The PEG Payment is not part of the Franchise Fee and, so long as it is used in accordance with Applicable Law, instead falls within one or more of the exceptions in 47 U.S.C. § 542. The PEG Fee may be categorized, itemized, and passed through to Subscribers as permissible, in accordance with 47 U.S.C. § 542 or other Applicable Laws. Grantee shall pay the PEG Fee to the City quarterly at the same time as the payment of

Franchise Fees under Section 16.1 of the Franchise. Grantee agrees that it will not offset or reduce its payment of past, present, or future Franchise Fees required as a result of its obligation to remit the PEG Fee.

PEG Technical Quality.

a) Grantee will deliver the SD/HD PEG Access Channel to Subscribers so that it is viewable without degradation, provided that it is not required to deliver a PEG Access Channel at a resolution higher than the highest resolution used in connection with the delivery of local broadcast signals to the public. Grantee may implement SD/HD carriage of the PEG Access Channel in any manner (including selection of compression, utilization of IP, and other processing characteristics) that produces a signal as accessible, functional, useable and of a quality comparable (meaning indistinguishable to the viewer) to broadcast SD/HD channels carried on the Cable System.

b) Within eight (8) hours of a written or e-mailed request from City to the Grantee identifying a technical problem with a PEG Access Channel and requesting assistance, Grantee will provide technical assistance or diagnostic services to determine whether or not a problem with a PEG signal is the result of matters for which Grantee is responsible and if so, Grantee will take prompt corrective action. If the problem persists and there is a dispute about the cause, then the parties shall meet with engineering representation from Grantee and the City in order to determine the course of action to remedy the problem.

c) If changes in the technology used by the Grantee require additional equipment for reception of PEG Access Channels, the Grantee shall make such equipment available free of charge and at no cost to the City.

7.14 Change in Technology. In the event Grantee makes any change in the Cable System and related equipment and facilities or in its signal delivery technology, which requires the City to obtain new equipment in order to be compatible with such change for purposes of transport and delivery of the PEG Access Channels, Grantee shall, at its own expense and free of charge to City or its designated entities, purchase such equipment as may be necessary to facilitate the cablecasting of the PEG Access Channels in accordance with the requirements of the Franchise.

7.15 Regional Channel Six. Grantee shall make available Regional Channel Six as long as it is required to do so by Applicable Law.

7.16 Compliance with Minnesota Statutes Chapter 238. In addition to the requirements contained in this Section 7 of this Franchise, Grantee and City shall comply with the PEG requirements mandated by Minn. Stat. § 238.084.

SECTION 8 REGULATORY PROVISIONS

8.1 Intent. The City shall have the right to administer and regulate activities under the Franchise up to the full extent permitted by Applicable Law.

8.2 Delegation of Authority to Regulate. The City reserves the right to delegate its regulatory authority wholly or in part to agents of the City, including, but not limited to, an agency which may be formed to regulate several franchises in the region in a manner consistent with Applicable Laws. Any existing delegation in place at the time of the grant of this Franchise shall remain intact unless expressly modified by City.

8.3 Regulation of Rates and Charges.

(a) **Right to Regulate.** The City reserves the right to regulate rates or charges for any Cable Service within the limits of Applicable Law, to enforce rate regulations prescribed by the FCC, and to establish procedures for said regulation or enforcement.

(b) **Notice of Change in Rates and Charges.** Throughout the term of this Franchise, Grantee shall give the City and all Subscribers within the City at least thirty (30) Days' notice of any intended modifications or additions to Subscriber rates or charges. Nothing in this subsection shall be construed to prohibit the reduction or waiving of rates or charges in conjunction with promotional campaigns for the purpose of attracting Subscribers or users.

(c) **Rate Discrimination Prohibited.** Within any category of Subscribers, Grantee shall not discriminate among Subscribers with regard to rates and charges made for any service based on considerations of race, color, creed, sex, marital or economic status, national origin, sexual preference, or (except as allowed by Applicable Law) neighborhood of residence, except as otherwise provided herein; and for purposes of setting rates and charges, no categorization of Subscribers shall be made by Grantee on the basis of those considerations. Nevertheless, Grantee shall be permitted to establish (1) discounted rates and charges for providing Cable Service to low-income, handicapped, or low-income elderly Subscribers, (2) promotional rates, and (3) bulk rate and package discount pricing.

SECTION 9 SECURITY FUND

9.1 Security Fund. If there is an uncured breach by Grantee of a material provision of this Franchise or a pattern of repeated violations of any provision(s) of this Franchise, then Grantee shall, upon written request, establish and provide to the City, as security for the faithful performance by Grantee of all of the provisions of this Franchise, a letter of credit from a financial institution satisfactory to the City in the amount of Ten Thousand and No/100 Dollars (\$10,000.00). In no event shall Grantee fail to post a Ten Thousand and No/100 Dollar (\$10,000.00) letter of credit within thirty (30) Days receipt of a notice of Franchise violation pursuant to this Section 10.1. Failure to post said letter of credit shall constitute a separate material violation of this Franchise unless the breach is cured within such thirty (30) Day period or longer period allowed under the Franchise. The letter of credit shall serve as a common security fund for the faithful performance by Grantee of all the provisions of this Franchise and compliance with all orders, permits and directions of the City and the payment by Grantee of any claim, liens, costs, expenses and taxes due the City which arise by reason of the construction, operation or maintenance of the Cable System. Interest on this deposit shall be paid to Grantee by the bank on an annual basis. The security may be terminated by the Grantee upon the resolution of the alleged

noncompliance. The obligation to establish the security fund required by this paragraph is unconditional. The fund must be established in those circumstances where Grantee disputes the allegation that it is not in compliance, and maintained for the duration of the dispute. If Grantee fails to establish the security fund as required, the City may take whatever action is appropriate to require the establishment of that fund and may recover its costs, reasonable attorneys' fees, and an additional penalty of Two Thousand Dollars (\$2,000) in that action.

9.2 Withdrawal of Funds. The letter of credit shall permit the City to withdraw funds upon demand (sight draft). Grantee shall not use the security fund for other purposes and shall not assign, pledge or otherwise use this security fund as security for any purpose.

9.3 Restoration of Funds. Within ten (10) Days after notice to it that any amount has been withdrawn by the City from the security fund pursuant to Section 10.4 of this Franchise, Grantee shall deposit a sum of money sufficient to restore such security fund to the required amount.

9.4 Liquidated Damages. In addition to recovery of any monies owed by Grantee to City or damages to City as a result of any acts or omissions by Grantee pursuant to the Franchise, City in its sole discretion may charge to and collect from the security fund liquidated damages in the amount of

- (a) Two Hundred Fifty Dollars (\$250.00) per Day for each Day, or part thereof, such failure occurs or continues.

9.5 Each Violation a Separate Violation. Each violation of any provision of this Franchise shall be considered a separate violation for which separate liquidated damages can be imposed.

9.6 Maximum 120 Days. Any liquidated damages for any given violation shall be imposed upon Grantee for a maximum of one hundred twenty (120) Days. If after that amount of time Grantee has not cured or commenced to cure the alleged breach to the satisfaction of the City, the City may pursue all other remedies.

9.7 Withdrawal of Funds to Pay Taxes. If Grantee fails to pay to the City any taxes due and unpaid; or fails to repay to the City, any damages, costs or expenses which the City shall be compelled to pay by reason of any act or default of the Grantee in connection with this Franchise; or fails, after thirty (30) Days' notice of such failure by the City to comply with any provision of the Franchise which the City reasonably determines can be remedied by an expenditure of the security, the City may then withdraw such funds from the security fund. Payments are not Franchise Fees as defined in Section 16 of this Franchise.

9.8 Procedure for Draw on Security Fund.

- (a) Whenever the City finds that Grantee has allegedly violated one (1) or more terms, conditions or provisions of this Franchise, a written notice shall be given to Grantee. The written notice shall describe in reasonable detail the alleged violation so as to afford Grantee an opportunity to remedy the violation. Grantee shall have thirty (30) Days subsequent to receipt of the notice in which to correct the violation before the City may

require Grantee to make payment of damages, and further to enforce payment of damages through the security fund. Grantee may, within ten (10) Days of receipt of notice, notify the City that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by Grantee shall specify with particularity the matters disputed by Grantee and shall stay the running of the above-described time.

(b) City shall hear Grantee’s dispute at a regularly scheduled or specially scheduled Council meeting within sixty (60) days of receipt of such dispute. Grantee shall have the right to speak and introduce evidence. The City shall determine if Grantee has committed a violation and shall make written findings of fact relative to its determination. If a violation is found, Grantee may petition for reconsideration.

(c) If after hearing the dispute, the claim is upheld by the City, then Grantee shall have thirty (30) Days within which to remedy the violation before the City may begin to draw on the security fund.

9.9 Time for Correction of Violation. The time for Grantee to correct any alleged violation may be extended by the City if the necessary action to collect the alleged violation is of such a nature or character as to require more than thirty (30) Days within which to perform provided Grantee commences corrective action within fifteen (15) Days and thereafter uses reasonable diligence, as determined by the City, to correct the violation.

9.10 Grantee’s Right to Pay Prior to Security Fund Draw. Grantee shall have the opportunity to make prompt payment of any assessed liquidated damages and if Grantee fails to promptly remit payment to the City, the City may resort to a draw from the security fund in accordance with the terms of this Section 10 of the Franchise.

9.11 Failure to so Replenish Security Fund. If any security fund is not so replaced, City may draw on said security fund for the whole amount thereof and hold the proceeds, without interest, and use the proceeds to pay costs incurred by City in performing and paying for any or all of the obligations, duties and responsibilities of Grantee under this Franchise that are not performed or paid for by Grantee pursuant hereto, including attorneys’ fees incurred by the City in so performing and paying. The failure to so replace any security fund may also, at the option of City, be deemed a default by Grantee under this Franchise. The drawing on the security fund by City, and use of the money so obtained for payment or performance of the obligations, duties and responsibilities of Grantee which are in default, shall not be a waiver or release of such default.

9.12 Collection of Funds Not Exclusive Remedy. The collection by City of any damages or monies from the security fund shall not affect any other right or remedy available to City, nor shall any act, or failure to act, by City pursuant to the security fund, be deemed a waiver of any right of City pursuant to this Franchise or otherwise. Notwithstanding this section, however, should the City elect to impose liquidated damages that remedy shall remain the City’s exclusive remedy for the one hundred twenty (120) Day period set forth in Section 10.6.

SECTION 10 DEFAULT

10.1 Basis for Default. City shall give written notice of default to Grantee if City determines that Grantee has:

- (a) Violated any material provision of this Franchise or the acceptance hereto or any rule, order, regulation or determination of the City, state or federal government, not in conflict with this Franchise;
- (b) Attempted to evade any material provision of this Franchise or the acceptance hereof;
- (c) Practiced any fraud or deceit upon City or Subscribers;
- (d) Made a material misrepresentation of fact in the application for or negotiation of this Franchise.

10.2 Default Procedure. If Grantee fails to cure such default within thirty (30) Days after the giving of such notice (or if such default is of such a character as to require more than thirty (30) Days within which to cure the same, and Grantee fails to commence to cure the same within said thirty (30) Day period and thereafter fails to use reasonable diligence, in City’s sole opinion, to cure such default as soon as possible), then, and in any event, such default shall be a substantial breach and City may elect to terminate the Franchise. The City may place the issue of revocation and termination of this Franchise before the governing body of City at a regular meeting. If City decides there is cause or reason to terminate, the following procedure shall be followed:

- (a) City shall provide Grantee with a written notice of the reason or cause for proposed termination and shall allow Grantee a minimum of thirty (30) Days subsequent to receipt of the notice in which to correct the default.
- (b) Grantee shall be provided with an opportunity to be heard at a public hearing prior to any decision to terminate this Franchise.
- (c) If, after notice is given and an opportunity to cure, at Grantee’s option, a public hearing is held, and the City determines there was a violation, breach, failure, refusal or neglect, the City may declare by resolution the Franchise revoked and of no further force and effect unless there is compliance within such period as the City may fix, such period may not be less than thirty (30) Days provided no opportunity for compliance need be granted for fraud or misrepresentation.

10.3 Mediation. If the Grantee and City are unable to resolve a dispute through informal negotiations during the period of thirty (30) Days following the submission of the claim giving rise to the dispute by one (1) party to the other, then unless that claim has been waived as provided in the Franchise, such claim may be subject to mediation if jointly agreed upon by both parties. Mutually agreed upon mediation shall stay other enforcement remedies of the parties for a period of ninety (90) Days from the date of filing, unless stayed for a longer period by agreement of the Grantee and City. The Grantee and City shall each pay one-half of the mediator’s fee and any filing fees. The mediation shall be held in the City unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as a settlement agreement in any court having jurisdiction thereof. Nothing herein shall serve to modify or on any way delay the franchise enforcement process set forth in Section 10 of this Franchise.

10.4 Failure to Enforce. Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of the City to enforce prompt compliance, and City’s failure to enforce shall not constitute a waiver of rights or acquiescence in Grantee’s conduct.

10.5 Compliance with the Laws.

(a) If any federal or state law or regulation shall require or permit City or Grantee to perform any service or act or shall prohibit City or Grantee from performing any service or act which may be in conflict with the terms of this Franchise, then as soon as possible following knowledge thereof, either party shall notify the other of the point in conflict believed to exist between such law or regulation. Grantee and City shall conform to state laws and rules regarding cable communications not later than one (1) year after they become effective, unless otherwise stated, and shall conform to federal laws and regulations regarding cable as they become effective.

(b) If any term, condition or provision of this Franchise or the application thereof to any Person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition or provision to Persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Franchise and all the terms, provisions and conditions hereof shall, in all other respects, continue to be effective and complied with provided the loss of the invalid or unenforceable clause does not substantially alter the agreement between the parties. In the event such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision which had been held invalid or modified is no longer in conflict with the law, rules and regulations then in effect, said provision shall thereupon return to full force and effect and shall thereafter be binding on Grantee and City.

SECTION 11 FORECLOSURE AND RECEIVERSHIP

11.1 Foreclosure. Upon the foreclosure or other judicial sale of the Cable System, Grantee shall notify the City of such fact and such notification shall be treated as a notification that a change in control of Grantee has taken place, and the provisions of this Franchise governing the consent to transfer or change in ownership shall apply without regard to how such transfer or change in ownership occurred.

11.2 Receivership. The City shall have the right to cancel this Franchise subject to any applicable provisions of state law, including the Bankruptcy Act, one hundred twenty (120) Days after the appointment of a receiver or trustee to take over and conduct the business of Grantee, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) Days, or unless:

(a) Within one hundred twenty (120) Days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this Franchise and remedied all defaults thereunder; and,

(b) Such receiver or trustee, within said one hundred twenty (120) Days, shall have executed an agreement, duly approved by the Court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Franchise.

SECTION 12 REPORTING REQUIREMENTS

12.1 Quarterly Reports. Within forty-five (45) Days after the end of each calendar quarter, Grantee shall submit to the City along with its Franchise Fee payment a report showing the basis for computation of such fees prepared by an officer of Grantee showing the basis for the computation of the Franchise Fees paid during that period in a form and substance substantially equivalent to Exhibit B attached hereto. This report shall separately indicate revenues received by Grantee within the City including, but not limited to such items as listed in the definition of “Gross Revenues” at Section 1 of this Franchise.

12.2 Reports. Upon request of the City and in no event later than thirty (30) Days from the date of receipt of such request, Grantee shall, free of charge, prepare and furnish to the City such additional reports with respect to its operation, affairs, transactions, or property, as may be reasonably necessary to ensure compliance with the terms of this Franchise and as such information may be maintained in the ordinary course of business. City shall agree to maintain the continuing confidentiality of such records as provided in Section 12.3 herein. Neither City nor Grantee shall unreasonably demand or withhold information requested pursuant with the terms of this Franchise.

12.3 Public Records

(a) Grantee acknowledges that information submitted by Grantee to the City may be open to public inspection under the Minnesota Government Data Practices Act (“MGDPA”) pursuant to Minn. Stat. Chapter 13. Grantee is responsible for becoming familiar with and understanding the provisions of the MGDPA.

(b) Grantee may identify information submitted to the City as confidential, if Grantee reasonably believes such information is qualified for an exemption recognized under the MGDPA. Grantee shall prominently mark each page, or portion thereof, for which it is claiming confidentiality as “Confidential” prior to submitting such information to the City. When submitting such information to the City, Grantee shall submit documentation to the City that specifically identifies the applicable exemption under the MGDPA, and stating the reason(s) Grantee believes the information is exempt from public inspection. After reviewing the Grantee’s request for confidentiality, and determining whether the identified exemptions are applicable, the City shall take reasonable steps to protect the confidential nature of any such information, consistent with the MGDPA, including only disclosing such information to employees, representatives, and agents thereof that have a need to know or in order to enforce the provisions of this Franchise.

(c) Within five (5) working days of receiving a public records request to inspect any such request, the City shall provide the Grantee with written notice of the request, including a copy of the request. Grantee shall have five (5) working days within which to

provide a written response to the City, before the City may disclose any of the requested, confidential information. If the City determines that it will be necessary to reveal the information, the City shall promptly notify the Grantee, and do so at least five (5) working days prior to the information being released. The City shall retain final discretion to determine whether to release the requested information in response to any public records request, as recognized under the MGDPA.

12.4 Communications with Regulatory Agencies.

(a) Upon written request, Grantee shall submit to City copies of any communications to any federal, state or local courts, regulatory agencies and other government bodies if such documents are directly relate to the operation of Grantee’s Cable System or Grantee’s provision of Cable Services within the Franchise Area. Grantee shall submit such communications to the City no later than thirty (30) Days after such communications have been filed. Grantee shall not claim confidential, privileged or proprietary rights to such documents unless under Applicable Law such documents have been determined to be confidential by a court of competent jurisdiction, or a federal or State agency or as a request for confidential treatment is pending. With respect to all other reports, documents and notifications provided to any federal, State or local regulatory agency as a routine matter in the due course of operating Grantee’s Cable System within the Franchise Area, Grantee shall make such documents available to City upon City’s written request.

(b) In addition, Grantee and its Affiliates shall within ten (10) Days of any communication to or from any judicial or regulatory agency regarding any alleged or actual violation of this Franchise, City regulation relating to the System, use its best efforts to provide the City a copy of the communication, whether specifically requested by the City to do so or not.

12.5 Open Records. Grantee shall manage all of its operations in accordance with a policy of keeping its records open and accessible to the City. The City, upon reasonable notice, shall have the right to inspect all records of the Grantee and affiliated entities necessary to determine compliance by Grantee with its obligations under this Franchise. Such inspection shall take place at any time during Normal Business Hours at a Grantee business operations site within the Twin Cities of Minnesota. Grantee shall not deny the City access to Grantee’s records on the basis that Grantee’s records are under the control of an affiliated entity or a third party, rather than the Grantee. In the case of affiliated entities not under common control with Grantee, Grantee shall not be subject to the remedies set forth in Section 11 if such Affiliate does not permit inspection of its records, and Grantee has;

(a) made available for inspection all of its records relevant to the determination of compliance; and

(b) exercised all reasonable efforts to persuade such affiliated entity to make such records available for inspection.

SECTION 13 CUSTOMER SERVICE POLICIES

13.1 Response to Customers and Cooperation with City. Grantee shall promptly respond to all requests for service, repair, installation and information from Subscribers. Grantee acknowledges the City’s interest in the prompt resolution of all cable complaints and shall work in close cooperation with the City to resolve complaints.

13.2 Customer Service Agreement and Written Information. Grantee shall provide to Subscribers a comprehensive service agreement and information in writing for use in establishing Subscriber service. Written information shall, at a minimum, contain the following information:

- (a) Services to be provided and rates for such services.
- (b) Billing procedures.
- (c) Service termination procedure.
- (d) Change in service notifications.
- (e) Liability specifications.
- (f) Converter/Subscriber terminal equipment policy.
- (g) Breach of Franchise specification.
- (h) How complaints are handled including Grantee’s procedure for investigation and resolution of Subscriber complaints.
- (i) The name, address, and phone number of the Person identified by the City as responsible for handling cable questions and complaints for the City. This information shall be prominently displayed and Grantee shall submit the information to the City for review and approval as to its content and placement on Subscriber billing statements. A copy of the written information shall be provided to each Subscriber at the time of initial Connection and any subsequent reconnection.

13.3 Reporting Complaints.

(a) The requirements of this Section 13.3 shall be subject to federal law regarding Subscriber privacy. Consistent with the way such information is maintained in the ordinary course of business, Grantee shall maintain customer service performance data available for City inspection. Subscriber data shall include the date, name, address, and telephone number of Subscriber complaints made to the City as well as the subject of the complaint, date and type of action taken to resolve the Complaint, any additional action taken by Grantee or the Subscriber. The data shall be maintained in a way that allows for simplified access of the data by the City.

(b) Subject to federal law and upon reasonable request by the City, Grantee shall, within a reasonable amount of time, make available City with such customer service data for its review.

13.4 Customer Service Standards. The City hereby adopts the customer service standards set forth in Part 76, §76.309 of the FCC’s rules and regulations, as amended. Grantee shall, upon request, which request shall include the reason for the request (such as complaints received or other reasonable evidence of concern), provide City with information which shall describe in detail Grantee’s compliance with each and every term and provision of this Section 13.4. Grantee shall comply in all respects with the customer service requirements established by the FCC and those set forth herein. The City reserves the right to enact additional consumer protection laws or requirements to the extent such requirements are no inconsistent with the FCC’s customer service standards.

13.5 Cable System Telephone Availability.

Grantee will maintain a local, toll-free or collect call telephone access line which will be available to its Subscribers twenty-four (24) hours a Day, seven (7) Days a week for responses to customer complaints or inquiries in accordance with the FCC’s customer service standards.

13.6 Installations, Outages and Service Calls. Under Normal Operating Conditions, each of the following standards will be met no less than ninety-five percent (95%) of the time measured on a quarterly basis:

(a) Standard Installations will be performed within seven (7) business days after an order has been placed. “Standard” Installations are those that are located up to one hundred twenty-five (125) feet from the existing distribution system as more specifically set forth in Section 6.7(b).

(b) Excluding conditions beyond the control of Grantee, Grantee will begin working on “Service Interruptions” promptly and in no event later than twenty-four (24) hours after the interruption becomes known. Grantee must begin actions to correct other Service problems the next business day after notification of the Service problem.

(c) The “appointment window” alternatives for Installations, Service calls, and other Installation activities will be either a specific time or, at maximum, a four (4) hour time block during Normal Business Hours. (Grantee may schedule Service calls and other Installation activities outside of Normal Business Hours for the express convenience of the customer.)

(d) Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(e) If Grantee’s representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

13.7 Communications between Grantee and Subscribers.

(a) Refunds. Refund checks will be issued promptly, but no later than either:

(i) The customer's next billing cycle following resolution of the request or thirty (30) Days, whichever is earlier, or

(ii) The return of the equipment supplied by Grantee if Cable Service is terminated.

(b) Credits. Credits for Cable Service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

13.8 Billing.

(a) Consistent with 47 C.F.R. § 76.1619, bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, Basic Cable Service and premium Cable Service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(b) In case of a billing dispute, Grantee must respond to a written complaint from a Subscriber within thirty (30) Days.

13.9 Subscriber Information.

(a) Grantee will provide written information on each of the following areas at the time of Installation of Service, at least annually to all Subscribers, and at any time upon request:

(i) Products and Services offered;

(ii) Prices and options for programming services and conditions of subscription to programming and other services;

(iii) Installation and Service maintenance policies;

(iv) Instructions on how to use the Cable Service;

(v) Channel positions of programming carried on the System; and

(vi) Billing and complaint procedures, including the address and telephone number of the City's cable office.

(b) Subscribers shall be advised of the procedures for resolution of complaints about the quality of the television signal delivered by Grantee, including the address of the responsible officer of the City. Subscribers will be notified of any changes in rates, programming services or Channel positions as soon as possible in writing. Notice must be given to Subscribers a minimum of thirty (30) Days in advance of such changes if the

change is within the control of Grantee. In addition, Grantee shall notify Subscribers thirty (30) Days in advance of any significant changes in the information required by this Section 13.9.

13.10 Notice or Rate Programming Change. In addition to the requirement of this Section 13.10 regarding advance notification to Subscribers of any changes in rates, programming services or Channel positions, Grantee shall give thirty (30) Days written notice to both Subscribers and the City before implementing any rate or Service change. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, change in external costs or the addition/deletion of Channels). When the change involves the addition or deletion of Channels, each Channel added or deleted must be separately identified. No notice is required when a channel addition or deletion does not result in a rate change. For purposes of the carriage of digital broadcast signals, Grantee need only identify for Subscribers, the television signal added and not whether that signal may be multiplexed during certain dayparts.

13.11 Subscriber Contracts. Grantee shall, upon written request, provide the City with any standard form residential Subscriber contract utilized by Grantee. If no such written contract exists, Grantee shall file with the City a document completely and concisely stating the length and terms of the Subscriber contract offered to customers. The length and terms of any standard form Subscriber contract(s) shall be available for public inspection during Normal Business Hours. A list of Grantee's current Subscriber rates and charges for Cable Service shall be maintained on file with City and shall be available for public inspection.

13.12 Refund Policy. If a Subscriber's Cable Service is interrupted or discontinued, without cause, for twenty-four (24) or more consecutive hours, Grantee shall, upon request by the Subscriber, credit such Subscriber pro rata for such interruption. For this purpose, every month will be assumed to have thirty (30) Days.

13.13 Late Fees. Grantee shall comply with all Applicable Laws with respect to any assessment, charge, cost, fee or sum, however characterized, that Grantee imposes upon a Subscriber for late payment of a bill. The City reserves the right to enforce Grantee's compliance with all Applicable Laws to the maximum extent legally permissible.

13.14 Disputes. All Subscribers and members of the general public may direct complaints, regarding Grantee's Service or performance to the chief administrative officer of the City or the chief administrative officer's designee, which may be a board or Commission of the City.

13.15 Subscriber Bills. Subscriber bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Subscribers, and in a way that (A) is not misleading and (B) does not omit material information. Notwithstanding anything to the contrary in Section 13.8, above, Grantee may, in its sole discretion, consolidate costs on Subscriber's bills as may otherwise be permitted by Section 622(c) of the Cable Act (47 U.S.C. §542(c)).

13.16 Failure to Resolve Complaints. Grantee shall resolve a complaint within thirty (30) Days in a manner deemed reasonable by the City under the terms of the Franchise.

13.17 Notification of Complaint Procedure. Grantee shall have printed clearly and prominently on each Subscriber bill and in the customer service agreement provided for in Section 13.11, the twenty-four (24) hour Grantee phone number for Subscriber complaints. Additionally, Grantee shall provide information to Subscribers concerning the procedures to follow when they are unsatisfied with measures taken by Grantee to remedy their complaint. This information will include the phone number of the City office or Person designated to handle complaints. Additionally, Grantee shall state that complaints should be made to Grantee prior to contacting the City.

13.18 Subscriber Privacy.

(a) To the extent required by Minn. Stat. §238.084 Subd. 1(s) Grantee shall comply with the following: No signals including signals of a Class IV Channel may be transmitted from a Subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the Subscriber. The request for permission must be contained in a separate document with a prominent statement that the Subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No penalty shall be invoked for a Subscriber’s failure to provide or renew such permission. The permission shall be revocable at any time by the Subscriber without penalty of any kind whatsoever.

(b) No information or data obtained by monitoring transmission of a signal from a Subscriber terminal, including but not limited to lists of the names and addresses of Subscribers or any lists that identify the viewing habits of Subscribers shall be sold or otherwise made available to any party other than to Grantee or its agents for Grantee’s business use, and also to the Subscriber subject of that information, unless Grantee has received specific written permission from the Subscriber to make such data available. The request for permission must be contained in a separate document with a prominent statement that the Subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No penalty shall be invoked for a Subscriber’s failure to provide or renew such permission. The permission shall be revocable at any time by the Subscriber without penalty of any kind whatsoever.

(c) Written permission from the Subscriber shall not be required for the conducting of system wide or individually addressed electronic sweeps for the purpose of verifying System integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth in subparagraph (b) of this section.

13.19 Grantee Identification. Grantee shall provide all customer service technicians and all other Grantee employees entering private property with appropriate picture identification so that Grantee employees may be easily identified by the property owners and Subscribers.

SECTION 14 SUBSCRIBER PRACTICES

14.1 Subscriber Rates. If any Subscriber fails to pay a properly due monthly Subscriber fee, or any other properly due fee or charge, Grantee may disconnect the Subscriber’s service outlet, provided, however, that such disconnection shall not be effected until after the later of: (i) forty-five (45) Days after the original due date of said delinquent fee or charge; or (ii) ten (10) Days after delivery to Subscriber of written notice of the intent to disconnect. If a Subscriber pays before expiration of the later of (i) or (ii), Grantee shall not disconnect. After disconnection, upon payment in full of the delinquent fee or charge and the payment of a reconnection charge, Grantee shall promptly reinstate the Subscriber’s Cable Service.

14.2 Refunds.

(a) Refunds to Subscribers shall be made or determined in the following manner:

(i) If Grantee fails, upon request by a Subscriber, to provide any service then being offered, Grantee shall promptly refund all deposits or advance charges paid for the service in question by said Subscriber. This provision does not alter Grantee’s responsibility to Subscribers under any separate contractual agreement or relieve Grantee of any other liability;

(ii) If any Subscriber terminates any monthly service because of failure of Grantee to render the service in accordance with this Franchise, Grantee shall refund to such Subscriber the proportionate share of the charges paid by the Subscriber for the services not received. This provision does not relieve Grantee of liability established in other provisions of this Franchise;

(iii) If any Subscriber terminates any monthly service prior to the end of a prepaid period, a proportionate amount of any prepaid Subscriber service fee, using the number of days as a basis, shall be refunded to the Subscriber by Grantee.

SECTION 15 COMPENSATION AND FINANCIAL PROVISIONS

15.1 Franchise Fees.

(a) During the term of the Franchise, Grantee shall pay to the City a Franchise Fee of five percent (5%) of Gross Revenues. If any such law, regulation or valid rule alters the five percent (5%) Franchise Fee ceiling established by the Cable Act, then the City shall have the authority to (but shall not be required to) increase the Franchise Fee accordingly, provided such increase is for purposes not inconsistent with Applicable Law. In the event Grantee bundles or combines Cable Service subject to the Franchise Fee with non-Cable Service so that Subscribers pay a single fee for more than one class of service resulting in a discount, Grantee shall, for purposes of calculation of the Franchise Fee, allocate to Cable Service revenue no less than a pro rata share of the revenue received for the bundled or combined services. The pro rata share shall be computed based on the

published charge for each service in the bundled or combined classes of services when purchased separately.

(b) Franchise Fees shall be paid quarterly not later than forty-five (45) Days following the end of a given quarter. In accordance with Section 16 of this Franchise, Grantee shall file with the City a Franchise Fee payment worksheet, attached as Exhibit B, signed by an authorized representative of Grantee, which identifies Gross Revenues earned by Grantee during the period for which payment is made. No acceptance of any payment shall be construed as an accord that the amount paid is in fact, the correct amount, nor shall such acceptance of payment be construed as a release of any claim which the City may have for further or additional sums payable under the provisions of this section.

(c) Neither current nor previously paid Franchise Fees shall be subtracted from the Gross Revenue amount upon which Franchise Fees are calculated and due for any period, unless otherwise required by Applicable Law.

(d) Any Franchise Fees owing pursuant to this Franchise which remain unpaid more than forty-five (45) Days after the dates specified herein shall be delinquent and shall thereafter accrue interest at twelve percent (12%) per annum or two percent (2%) above prime lending rate as quoted by the Wall Street Journal, whichever is greater.

15.2 Auditing and Financial Records. Throughout the term of this Franchise, the Grantee agrees that the City, upon reasonable prior written notice of twenty (20) Days to the Grantee, may review such of the Grantee's books and records regarding the operation of the Cable System and the provision of Cable Service in the Franchise Area which are reasonably necessary to monitor and enforce Grantee's compliance with the provisions of this Franchise. The production of such records shall be subject to Section 12.3 herein. Grantee shall provide such requested information as soon as possible and in no event more than thirty (30) Days unless Grantee explains that it is not feasible to meet this timeline and provides a written explanation for the delay and an estimated reasonable date for when such information will be provided. All such documents pertaining to financial matters that may be the subject of an inspection by the City shall be retained by the Grantee for a minimum period of seven (7) years, pursuant to Minn. Stat. § 541.05. The Grantee shall not deny the City access to any of the Grantee's records on the basis that the Grantee's records are under the control of any parent corporation, Affiliate or a third party. The City may request in writing copies of any such records or books that are reasonably necessary, and the Grantee shall provide such copies within thirty (30) Days of the receipt of such request. One (1) copy of all reports and records required under this or any other section shall be furnished to the City at the sole expense of the Grantee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then the Grantee may request, in writing within ten (10) Days of receipt of such request, that the City inspect them at the Grantee's local offices or at one of Grantee's offices more convenient to City or its duly authorized agent. If any books or records of the Grantee are not kept in such office and not made available in copies to the City upon written request as set forth above, and if the City determines that an examination of such records is necessary for the enforcement of this Franchise, then all reasonable travel expenses incurred in making such examination shall be paid by the Grantee.

15.3 Review of Record Keeping Methodology. Upon request, Grantee agrees to meet with a representative of the City to review its methodology of record-keeping, financial reporting, computing Franchise Fee obligations, and other procedures the understanding of which the City deems necessary for understanding the meaning of reports and records.

15.4 Audit of Records. The City or its authorized agent may at any time and at the City's own expense conduct an independent audit of the revenues of Grantee in order to verify the accuracy of Franchise Fees paid to the City. Grantee and each parent company of Grantee shall cooperate fully in the conduct of such audit. In the event it is determined through such audit that Grantee has underpaid Franchise Fees in an amount of five percent (5%) or more than was due the City, then Grantee shall reimburse the City for the entire cost of the audit within thirty (30) Days of the completion and acceptance of the audit by the City.

15.5 Records to be reviewed. The City agrees to request access to only those books and records, in exercising its rights under this section, which it deems reasonably necessary for the enforcement and administration of the Franchise.

15.6 Indemnification by Grantee. Grantee shall, at its sole expense, fully indemnify, defend and hold harmless the City, and in their capacity as such, the officers and employees thereof, from and against any and all claims, suits, actions, liability and judgments for damage or otherwise except those arising wholly from negligence or willful misconduct on the part of the City or its employees; for actual or alleged injury to Persons or property, including loss of use of property due to an occurrence, whether or not such property is physically damaged or destroyed, in any way arising out of or through or alleged to arise out of or through the acts or omissions of Grantee or its officers, agents, employees, or contractors or to which Grantee's or its officers, agents, employees or contractors acts or omissions in any way contribute, and whether or not such acts or omissions were authorized or contemplated by this Franchise or Applicable Law; arising out of or alleged to arise out of any claim for damages for Grantee's invasion of the right of privacy, defamation of any Person, firm or corporation, or the violation of infringement of any copyright, trademark, trade name, service mark or patent, or of any other right of any Person, firm or corporation; arising out of or alleged to arise out of Grantee's failure to comply with the provisions of any Applicable Law. Nothing herein shall be deemed to prevent the City, its officers, or its employees from participating in the defense of any litigation by their own counsel at such parties' expense. Such participation shall not under any circumstances relieve Grantee from its duty of defense against liability or of paying any judgment entered against the City, its officers, or its employees. The City shall give the Grantee written notice of its obligation to indemnify within a reasonable time not to exceed thirty (30) business days of receipt of a claim or action pursuant to this subsection.

15.7 Grantee Insurance. Upon the Effective Date, Grantee shall, at its sole expense take out and maintain during the term of this Franchise public liability insurance with a company licensed to do business in the state of Minnesota with a rating by A.M. Best & Co. of not less than "A-" that shall protect the Grantee, City and its officials, officers, directors, employees and agents from claims which may arise from operations under this Franchise, whether such operations be by the Grantee, its officials, officers, directors, employees and agents or any subcontractors of Grantee. This liability insurance shall include, but shall not be limited to, protection against claims arising from bodily and personal injury and damage to property, resulting from Grantee's vehicles,

products and operations. The amount of insurance for single limit coverage applying to bodily and personal injury and property damage shall not be less than Three Million Dollars (\$3,000,000). The liability policy shall include:

- (a) The policy shall provide coverage on an “occurrence” basis.
- (b) The policy shall cover personal injury as well as bodily injury.
- (c) The policy shall cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier’s standard endorsement as to bodily injuries, personal injuries and property damage.
- (d) Broad form property damage liability shall be afforded.
- (e) City shall be named as an additional insured on the policy.
- (f) An endorsement shall be provided which states that the coverage is primary insurance with respect to claims arising from Grantee’s operations under this Franchise and that no other insurance maintained by the City will be called upon to contribute to a loss under this coverage.
- (g) Standard form of cross-liability shall be afforded.
- (h) An endorsement stating that the policy shall not be canceled without thirty (30) Days’ notice of such cancellation given to City.
- (i) City reserves the right to adjust the insurance limit coverage requirements of this Franchise no more than once every three (3) years. Any such adjustment by City will be no greater than the increase in the State of Minnesota Consumer Price Index (all consumers) for such three (3) year period.
- (j) Upon the Effective Date, Grantee shall submit to City a certificate documenting the required insurance, as well as any necessary properly executed endorsements. The certificate and documents evidencing insurance shall be in a form acceptable to City and shall provide satisfactory evidence that Grantee has complied with all insurance requirements. Renewal certificates shall be provided to City prior to the expiration date of any of the required policies. City will not be obligated, however, to review such endorsements or certificates or other evidence of insurance, or to advise Grantee of any deficiencies in such documents and receipt thereof shall not relieve Grantee from, nor be deemed a waiver of, City’s right to enforce the terms of Grantee’s obligations hereunder. City reserves the right to examine any policy provided for under this paragraph or to require further documentation reasonably necessary to form an opinion regarding the adequacy of Grantee’s insurance coverage.

SECTION 16 MISCELLANEOUS PROVISIONS

16.1 Guarantee of Performance. Grantee agrees that it enters into this Franchise voluntarily in order to secure and in consideration of the grant from the City of a ten (10) year

Franchise. Performance pursuant to the terms and conditions of this Franchise is guaranteed by Grantee.

16.2 Entire Agreement. This Franchise contains the entire agreement between the parties, supersedes all prior agreements or proposals except as specifically set forth herein, and cannot be changed orally but only by an instrument in writing executed by the parties. This Franchise is made pursuant to Minnesota Statutes Chapter 238 and the City Code and is intended to comply with all requirements set forth therein.

16.3 Consent. Wherever the consent or approval of either Grantee or the City is specifically required in this agreement, such consent or approval shall not be unreasonably withheld.

16.4 Prior Franchise Terminated. The cable television franchise originally granted by Ordinance 186 is hereby terminated.

16.5 Franchise Acceptance. No later than sixty (60) Days following City Council approval of this Franchise, Grantee shall execute and return to the City three (3) original franchise agreements. The executed agreements shall be returned to the City accompanied by performance bonds, security funds, and evidence of insurance, all as provided in this Franchise. In the event Grantee fails to accept this Franchise, or fails to provide the required documents, this Franchise may, upon Council action, be rescinded. The Grantee agrees that despite the fact that its written acceptance may occur after the Effective Date, the obligations of this Franchise shall become effective on the Effective Date.

16.6 Amendment of Franchise. Grantee and City may agree, from time to time, to amend this Franchise. Such written amendments may be made to address technology changes or advances subsequent to a review session pursuant to Section 2.6 or at any other time if City and Grantee agree that such an amendment will be in the public interest or if such an amendment is required due to changes in federal, state or local laws; provided, however, nothing herein shall restrict City's exercise of its police powers.

16.7 Franchise Renewal. Any renewal of this Franchise shall be in accordance with Applicable Laws. The term of any renewed Franchise shall be limited to a period not to exceed fifteen (15) years.

16.8 Notice.

(a) Any notification that requires a response or action from a party to this Franchise, within a specific time-frame or would trigger a timeline that would affect one or both parties' rights under this Franchise, shall be made in writing and shall be sufficiently given and served upon the other party by hand delivery, first class mail, registered or certified, return receipt requested, postage prepaid, or by reputable overnight courier service and addressed as follows:

To the City: City Administrator
City of New Prague
118 Central Ave. N.
New Prague, MN 56071

To the Grantee: Comcast Regional Vice President of Operations
10 River Park Place
St. Paul, MN 55107

(b) Recognizing the widespread usage and acceptance of electronic forms of communication, emails and faxes will be acceptable as formal notification related to the conduct of general business amongst the parties to this contract, including but not limited to programming and price adjustment communications. Such communication should be addressed and directed to the Person of record as specified above.

16.9 Rights of Individuals.

(a) Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers, Channel users, or general citizens on the basis of race, color, religion, disability, national origin, age, gender or sexual preference. Grantee shall comply at all times with all other Applicable Laws, relating to nondiscrimination.

(b) Grantee shall adhere to the applicable equal employment opportunity requirements of Applicable Laws, as now written or as amended from time to time including 47 U.S.C. Section 551, Protection of Subscriber Privacy.

16.10 Rights Reserved to City. In addition to any rights specifically reserved to the City by this Franchise, the City reserves to itself every right and power which is required to be reserved by a provision of this Franchise.

16.11 Severability. If any provision of this Franchise is held by any governmental authority of competent jurisdiction, to be invalid as conflicting with any Applicable Laws now or hereafter in effect, or is held by such governmental authority to be modified in any way in order to conform to the requirements of any such Applicable Laws, such provision shall be considered a separate, distinct, and independent part of this Franchise, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such Applicable Laws are subsequently repealed, rescinded, amended or otherwise changed, so that the provision hereof which had been held invalid or modified is no longer in conflict with such laws, said provision shall thereupon return to full force and effect and shall thereafter be binding on City and Grantee, provided that City shall give Grantee thirty (30) Days written notice of such change before requiring compliance with said provision or such longer period of time as may be reasonably required for Grantee to comply with such provision.

16.12 Force Majeure. In the event that either party is prevented or delayed in the performance of any of its obligations, under this Franchise by reason of acts of God, floods, fire, hurricanes, tornadoes, earthquakes, or other unavoidable casualties, insurrection, war, riot, vandalism, strikes, delays in receiving permits where it is not the fault of Grantee, public

easements, sabotage, acts or omissions of the other party, or any other similar event beyond the reasonable control of that party, it shall have a reasonable time under the circumstances to perform such obligation under this Franchise, or to procure a substitute for such obligation to the reasonable satisfaction of the other party.

16.13 Work of Contractors and Subcontractors. Work by contractors and subcontractors are subject to the same restrictions, limitations and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors and subcontractors, and others performing work on its behalf as if the work were performed by it and shall ensure that all such work is performed in compliance with this Franchise, the City Code and other Applicable Law, and shall be jointly and severally liable for all damages and correcting all damage caused by them. It is Grantee’s responsibility to ensure that contractors, subcontractors or other Persons performing work on Grantee’s behalf are familiar with the requirements of this Franchise, the City Code and other Applicable Laws governing the work performed by them.

16.14 Abandonment of System. Grantee may not abandon the System or any portion thereof during the term of this Franchise, and thereafter without having first given three (3) months written notice to City and conforming to the City Code, as well as the state right-of-way rules, Minn. Rules, Chapter 7819. To the extent required by Minn. Stat. § 238.084, Subd. 1 (w), Grantee shall compensate City for damages resulting from the abandonment.

16.15 Removal After Abandonment. In the event of Grantee’s abandonment of the System, City shall have the right to require Grantee to conform to Section 405 of the City Code, as well as the state right-of-way rules, Minn. Rules, Chapter 7819. If Grantee has failed to commence removal of the System, or such part thereof as was designated by City, within thirty (30) Days after written notice of City’s demand for removal consistent with Section 405 of the City Code and Minn. Rules, Ch. 7819, is given, or if Grantee has failed to complete such removal within twelve (12) months after written notice of City’s demand for removal is given City shall have the right to require provision of the security fund provided for herein and draw and apply all such funds toward removal, and declare all right, title, and interest to the System to be in City with all rights of ownership including, but not limited to, the right to operate the System or transfer the System to another for operation by it.

16.16 Governing Law. This Franchise shall be deemed to be executed in the State of Minnesota, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Minnesota, as applicable to contracts entered into and performed entirely within the State.

16.17 Nonenforcement by City. Grantee shall not be relieved of its obligation to comply with any of the provisions of this Franchise by reason of any failure of the City or to enforce prompt compliance.

16.18 Captions. The paragraph captions and headings in this Franchise are for convenience and reference purposes only and shall not affect in any way the meaning of interpretation of this Franchise.

16.19 Calculation of Time. Where the performance or doing of any act, duty, matter, payment or thing is required hereunder and the period of time or duration for the performance is prescribed and fixed herein, the time shall be computed so as to exclude the first and include the last Day of the prescribed or fixed period or duration of time. When the last Day of the period falls on Saturday, Sunday or a legal holiday that Day shall be omitted from the computation and the next business Day shall be the last Day of the period.

16.20 Survival of Terms. Upon the termination or forfeiture of the Franchise, Grantee shall no longer have the right to occupy the Streets for the purpose of providing Cable Service. However, Grantee's obligations to the City (other than the obligation to provide service to Subscribers) shall survive according to their terms.

16.21 No Third-Party Beneficiaries. Nothing in this Franchise Agreement is intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Franchise Agreement.

16.22 Competitive Equity.

(a) The Grantee acknowledges and agrees that the City reserves the right to grant one (1) or more additional franchises or other similar lawful authorization to utilize the Streets in order to provide Cable Services or similar video programming service within the City in accordance with Applicable Law (hereinafter "Lawful Franchise"). If the City grants a Lawful Franchise containing material terms and conditions that differ from Grantee's material obligations under this Franchise, or if the City declines to require a Lawful Franchise where it has the legal authority to do so, then the City agrees that the obligations in this Franchise will, pursuant to the process set forth in this section, be amended to include any material terms or conditions that are imposed upon the new entrant, or provide relief from existing material terms or conditions, so as to insure that the regulatory and financial burdens on each entity are no more favorable or less burdensome. "Material terms and conditions" include, but are not limited to: Franchise Fees and Gross Revenues; complementary services; insurance; System build-out requirements consistent with Applicable Law; security instruments; PEG Access Channels and PEG Fees; customer service standards; required reports and related record keeping; audits; dispute resolution; remedies; and notice and opportunity to cure breaches. The parties agree that this provision shall not require a word for word identical franchise or authorization for a competitive entity so long as the regulatory and financial burdens on each entity are no more favorable or less burdensome.

(b) The modification process of this Franchise as provided for in Section 16.22(a) shall only be initiated by written notice by the Grantee to the City regarding specified franchise obligations. Grantee's notice shall address the following: (1) identifying the specific terms or conditions in the competitive Lawful Franchise that are materially different from Grantee's obligations under this Franchise; (2) identifying the Franchise terms and conditions for which Grantee is seeking amendments; (3) providing text for any proposed Franchise amendments to the City, with a written explanation of why the proposed amendments are necessary and consistent. Notwithstanding any modification of this Franchise pursuant to the provisions of this Section 16.22(a), should any entity

whose Lawful Franchise triggered the amendments under this section cease to provide such services within the City, the City may provide ninety (90) Days written notice to Grantee of such fact, and the City and Grantee shall enter into good faith negotiations to determine which of the original terms, conditions and obligations of this Franchise shall be reinstated and fully effective. It is the intent of the parties that the original terms, conditions and obligations of this Franchise shall be reinstated in the absence of a competitive entity.

(c) Upon receipt of Grantee’s written notice as provided in Section 16.22(b), the City and Grantee agree that they will use best efforts in good faith to negotiate Grantee’s proposed Franchise modifications, and that such negotiation will proceed and conclude within a one hundred twenty (120) Day time period, unless that time period is reduced or extended by mutual agreement of the parties. If the City and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the City shall amend this Franchise to include the modifications.

(d) In the alternative to Franchise modification negotiations as provided for in Section 16.22(a), or if the City and Grantee fail to reach agreement in negotiations as provided for in Section 16.22(c), Grantee may, at its option, elect to replace this Franchise by opting into the Lawful Franchise, with the understanding that Grantee may use its current system design and technology infrastructure to meet any requirements of the Lawful Franchise, so as to ensure that the regulatory and financial burdens on each entity are no more favorable or less burdensome. If Grantee so elects, the City shall immediately commence proceedings to replace this Franchise with the Lawful Franchise.

(e) Notwithstanding anything contained in this Section 16.22(a) through (d) to the contrary, the City shall not be obligated to amend or replace this Franchise unless the new entrant makes Cable Services or similar video programming services available for purchase by Subscribers or customers under its franchise agreement with the City.

Passed and adopted this ___ day of September, 2023.

CITY OF NEW PRAGUE, MINNESOTA

Duane J. Jirik, Mayor

ATTEST:

Joshua M. Tetzlaff, City Administrator

ACCEPTED: This Franchise is hereby accepted, and we agree to be bound by its terms and conditions.

COMCAST OF ARKANSAS/
LOUISIANA/MINNESOTA/
MISSISSIPPI/TENNESSEE, LLC

Date: _____, 2023

By: _____

Its: _____

SWORN TO BEFORE ME

this__ day of _____, 2023.

_____ Notary Public

Exhibit A

PEG Transport Lines

- New Prague City Hall, 118 Central Ave N, New Prague, MN, to Comcast Hub
- New Prague High School, 221 12th Street NE., New Prague, MN, to Comcast Hub

Complimentary Cable Service to Public Buildings

- City Hall, New Prague: 118 Central Ave. N., New Prague, MN
- Fire Department, New Prague: 118 Central Ave. S., New Prague, MN
- Library, New Prague: 400 Main Street E., New Prague, MN
- Municipal, New Prague: 300 Main Street E., New Prague, MN
- Elementary, New Prague: 1200 Columbus Ave N., New Prague, MN
- Middle School, New Prague: 721 Central Ave. S., New Prague, MN
- High School, New Prague: 221 12th Street NE., New Prague, MN
- School, Wenceslaus: 227 Main Street E., New Prague, MN
- Elementary, Raven Stream: 300 11th Ave. NW., New Prague, MN
- Junior High, New Prague: 405 1st Ave. NW., New Prague, MN

Exhibit B

Franchise Fee Payment Worksheet

*****CONFIDENTIAL*****



System Name: Comcast of Minnesota, Inc.
 Email: Prasant_Nadella@cable.comcast.com
 Phone: 610-665-2579

Vendor ID:	XXXXXX
Contract Name:	X
Statement Period:	Jan - Mar, 2020
Payment Amount:	\$X
Statement Number:	XXXXXXX
CUID:	XXXXXXX
System ID:	XXXX-XXXX-XXXX

This statement represents your payment for the period listed above.

Revenue Category	Amount
Expanded Basic Video Service	\$
Limited Basic Video Service	\$
Digital Video Service	\$
Pay	\$
PPV / VOD	\$
Digital Video Equipment	\$
Video Installation / Activation	\$
Franchise Fees	\$
Guide	\$
Other	\$
Late Fees	\$
Write-offs / Recoveries	\$
Ad Sales	\$
Home Shopping Commissions	\$
Total	\$
Franchise Fee %	%
Franchise Fee	\$



118 Central Avenue North, New Prague, MN 56071
phone: 952-758-4401 fax: 952-758-1149

MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL
CC: JOSHUA M. TETZLAFF, CITY ADMINISTRATOR
FROM: KEN ONDICH, PLANNING / COMMUNITY DEVELOPMENT DIRECTOR
KYRA CHAPMAN, PLANNER
SUBJECT: INTRODUCTION OF ORDINANCE AMENDING SECTION 707 OF THE ZONING
ORDINANCE TITLED SCREENING RELATING TO SCREENING
REQUIREMENTS IN THE I-1 LIGHT INDUSTRIAL ZONING DISTRICT
DATE: AUGUST 30, 2023

Earlier this year, there were screening complaints of a property in the I-1 Light Industrial Zoning District adjacent to TH21. Under the current zoning ordinance, there are only specific screening requirements for commercial, industrial, or institutional uses that abut residentially zoned properties. The ordinance does not account for industrial properties adjacent to commercial, industrially zoned properties or major roadways. Over the past few months, the Planning Commission has been drafting up a revised ordinance with language that outlines specific opacity, fencing, escrow, warranty, tree spacing, diameter, and height requirements for various locations of industrial uses which previously would be individually determined during a conditional use permit review process only.

The Planning Commission held the required public hearing on the zoning ordinance amendment on August 23rd, 2023 and received no public comments during the hearing. During the meeting, the Planning Commissioners suggested making some modifications to the warranty and escrow section in regard to the amount of escrow and escrow forfeiture. Since their last meeting, this section has been expanded upon noting an escrow being required in the amount of 125% of the cost of the landscaping to ensure the escrow would ensure the work could be completed by the city if necessary. The Planning Commission motioned (4-0) to forward the zoning ordinance amendment to the City Council.

Recommendation

Staff recommends that the City Council conduct a first reading and approve the introduction of the ordinance amendment.

ORDINANCE NO. 340

CITY OF NEW PRAGUE

**AN ORDINANCE AMENDING SECTION 707 OF THE ZONING ORDINANCE
TITLED SCREENING RELATING TO SCREENING REQUIREMENTS IN THE I-1
LIGHT INDUSTRIAL DISTRICT**

The City of New Prague Ordains:

SECTION 1. Section 707 of the Zoning Ordinance titled Screening is amended by deleting the ~~stricken~~ material and adding the underlined material as follows:

707 Screening

1. Commercial, Industrial, or Institutional Uses Abutting Residential Districts

Where any commercial, industrial or institutional uses are adjacent to property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front as determined by the Zoning Administrator. Landscape screening required under this section shall not be allowed within public drainage and utility easements. Screening is not required within any site triangle required under Section 723(6) of this Ordinance. Screening shall consist of a 20 foot wide green belt strip as provided below:

- A. A green belt planting strip shall consist of staggered rows of evergreen trees, or deciduous trees and plants, or shrubs each spaced at a maximum of 12.5’ and consist of a sufficient density to provide a visual screen and reasonable buffer of at least an 80% opacity year round once trees are mature. This planting strip shall be designed to provide visual screening to a minimum height of six eight feet at all times and a minimum tree diameter of 2.5” measured six inches above the ground level. The grade for determining the height shall be the grade elevation of the building or use for which the screening is providing protection. The planting plan and type of plantings shall require the approval of the Zoning Administrator.
- B. A fence may also be installed, but not in lieu of the green belt planting strip. The fence shall be visually appealing and cohesive with the exterior of the principal structure constructed of masonry, brick, vinyl, or wood. The fence must be located within the interior of the lot such that the green belt plantings are visible from adjacent property.
- C. For any use allowed via a conditional use permit, additional requirements may be added to the above requirements in order to mitigate the impact on the adjacent residential properties and if adjacent to roads classified as major collectors and higher, such as berms, more opacity or other requirements not listed herein.

2. Industrial Uses Abutting Commercial or Industrial Districts

All industrial properties abutting commercial or industrially zoned districts must follow the

provisions below:

- A. A single row of deciduous or evergreen trees is required and must be a minimum height of 8' with a minimum diameter of 2.5" measured six inches above the ground level. Tree spacing shall be 40' around the perimeter of the property abutting commercial or industrial districts. Follow § 717 of the Zoning Ordinance for landscaping requirements for parking lots.
- B. If fencing is erected on the property, the fence must be visually appealing and cohesive with the exterior of the principal structure.

3. Industrial Uses Along Arterial Roadways

- A. If a proposed industrial use abuts a roadway classified as an arterial roadway or higher, the applicant must obtain a conditional use permit to ensure that the property and use is adequately screened from the arterial roadway which may include additional landscaping/screening requirements beyond those found in Section 1 and 2 above as well as include additional requirements related to tree spacing, opacity, fencing, etc.

4. Warranty and Escrow

- A. The City shall collect a cash escrow specifically for the screening requirements before any building permit is issued. The escrow shall be at an amount equal to a minimum of 125% of the estimated screening expenses and shall be refunded to the party who deposited the escrow when all the following are completed and approved by the City:
 - 1. Required screening trees are installed and alive at the end of the 1 year warranty time period.
 - 2. Sites that are completed between October 15th and before May 15th shall have until July 1st to plant the required trees but will only be issued a temporary certificate of occupancy until that time.
 - 3. If the property owner fails to complete the landscaping and screening requirements by the deadline, the City may finish the work with the cash escrow. Any additional fees or expenses accrued in association with the City finishing the work will also be invoiced to the property owner.

SECTION 2. This ordinance shall take effect and be in force after its passage and upon its publication, in accordance with Section 3.13 of the City Charter.

Introduced to the City Council of the City of New Prague, Minnesota, this 5th day of September, 2023.

The required 10 days posted notice was completed on the City Website and City Hall Bulletin Board on September 6th, 2023.

Passed by the City Council of the City of New Prague, Minnesota, the 18th day of September, 2023, and to be published on the 28th day of September, 2023.

Duane J. Jirik, Mayor

State of Minnesota)

)ss.

(CORPORATE ACKNOWLEDGMENT)

County of Scott & Le Sueur)

Subscribed and sworn before me, a Notary Public this _____ day of _____, 2023.

Notary Public

ATTEST: _____
Joshua M. Tetzlaff, City Administrator

State of Minnesota)

)ss.

(CORPORATE ACKNOWLEDGMENT)

County of Scott & Le Sueur)

Subscribed and sworn before me, a Notary Public this _____ day of _____, 2023.

Notary Public

THIS INSTRUMENT DRAFTED BY:

Kyra J. Chapman
City of New Prague
118 Central Ave. N.
New Prague, MN 56071
(952) 758-4401



118 Central Avenue North, New Prague, MN 56071
phone: 952-758-4401 fax: 952-758-1149

MEMORANDUM

TO: PLANNING COMMISSION
FROM: KEN ONDICH, PLANNING / COMMUNITY DEVELOPMENT DIRECTOR
KYRA CHAPMAN, PLANNER
SUBJECT: PROPOSED ZONING ORDINANCE AMENDMENT FOR SCREENING
REQUIREMENTS IN THE I-1 LIGHT INDUSTRIAL ZONING DISTRICT
DATE: AUGUST 28, 2023

During a recent review of a conditional use permit, the Planning Commission showed a concern for providing adequate screening of a property and particular use in the I-1 Light Industrial district, largely due to recent complaints of another industrial property. The particular use in question involves “exterior storage”.

While the City’s zoning ordinance does have screening requirements under Section 707, additional landscaping and screening requirements in the industrial district are determined when establishing conditions for a conditional use permit and based on the specific type of use occurring, such as exterior storage type uses.

The current Zoning Ordinance outlines requirements for commercial, industrial, or institutional uses abutting residentially zoned properties. The ordinance does not account for industrial properties adjacent to commercial or industrially zoned properties. To better visually screen the industrial district and minimize noise, erosion, and glare, staff added language that outlines opacity, tree spacing, diameter, height, and fencing aesthetic requirements to the ordinance.

The Planning Commission previously reviewed concept language for a zoning ordinance amendment on both May 24th and June 28th, 2023. The public hearing was scheduled for tonight’s meeting.

Other City Regulations for Landscaping and Screening

See attached research.

City Staff Comments

Comments not yet solicited from other city departments at this time.

Proposed Zoning Ordinance Language-

Staff suggests amending the zoning ordinance language that details screening and landscaping requirements for commercial, industrial, or institutional uses abutting residentially zoned properties and screening requirements for industrial properties abutting industrial and commercial properties.

Amendments are shown as follows: ~~struck out~~ and added.

707 Screening

1. Commercial, Industrial, or Institutional Uses Abutting Residential Districts

Where any commercial, industrial or institutional uses are adjacent to property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front as determined by the Zoning Administrator. Landscape screening required under this section shall not be allowed within public drainage and utility easements. Screening is not required within any site triangle required under Section 723(6) of this Ordinance. Screening shall consist of a 20 foot wide green belt strip as provided below:

- A. A green belt planting strip shall consist of staggered rows of evergreen trees, ~~or~~ deciduous trees and plants, or shrubs each spaced at a maximum of 12.5' and consist of a sufficient density to provide a visual screen and reasonable buffer of at least an 80% opacity year round once trees are mature. This planting strip shall be designed to provide visual screening to a minimum height of ~~six~~ eight feet at all times and a minimum tree diameter of 2.5" measured six inches above the ground level. The grade for determining the height shall be the grade elevation of the building or use for which the screening is providing protection. The planting plan and type of plantings shall require the approval of the Zoning Administrator.
- B. A fence may also be installed, but not in lieu of the green belt planting strip. The fence shall be visually appealing and cohesive with the exterior of the principal structure ~~constructed of masonry, brick, vinyl, or wood~~. The fence must be located within the interior of the lot such that the green belt plantings are visible from adjacent property.
- C. For any use allowed via a conditional use permit, additional requirements may be added to the above requirements in order to mitigate the impact on the adjacent residential properties and if adjacent to roads classified as major collectors and higher, such as berms, more opacity or other requirements not listed herein.

2. Industrial Uses Abutting Commercial or Industrial Districts

All industrial properties abutting commercial or industrially zoned districts must follow the provisions below:

- A. A single row of deciduous or evergreen trees is required and must be a minimum height of 8' with a minimum diameter of 2.5" measured six inches above the ground level. Tree spacing shall be 40' around the perimeter of the property abutting

commercial or industrial districts. Follow § 717 of the Zoning Ordinance for landscaping requirements for parking lots.

B. If fencing is erected on the property, the fence must be visually appealing and cohesive with the exterior of the principal structure.

3. Industrial Uses Along Arterial Roadways

A. If a proposed industrial use abuts a roadway classified as an arterial roadway or higher, the applicant must obtain a conditional use permit to ensure that the property and use is adequately screened from the arterial roadway which may include additional landscaping/screening requirements beyond those found in Section 1 and 2 above as well as include additional requirements related to tree spacing, opacity, fencing, etc.

4. Warranty and Escrow

A. The City shall collect a cash escrow specifically for the screening requirements before any building permit is issued. The escrow shall be at an amount equal to a minimum of 125% of the estimated screening expenses and shall be refunded to the party who deposited the escrow when all the following are completed and approved by the City:

- 1. Required screening trees are installed and alive at the end of the 1 year warranty time period.**
- 2. Sites that are completed between October 15th and before May 15th shall have until July 1st to plant the required trees but will only be issued a temporary certificate of occupancy until that time.**
- 3. If the property owner fails to complete the landscaping and screening requirements by the deadline, the City may finish the work with the cash escrow. Any additional fees or expenses accrued in association with the City finishing the work will also be invoiced to the property owner.**

Recommendation

Staff recommends that the Planning Commission hold the required public hearing on July 26th, 2023 to gather public input and to forward a recommendation on the proposed amendment to the City Council for consideration at their meeting on August 7th, 2023.

Attachments:

- 1. Other City & County Regulations on Screening

Other City & County Regulations on Screening

According to Belle Plaine's Zoning Ordinance, all commercial and industrial uses abutting or adjacent to residential districts must provide screening and consist of a fence or a green belt strip. A green belt planting strip shall consist of evergreen trees or deciduous trees and plants. The planting strip shall be designed to provide complete visual screening to a minimum height of six (6') feet. Earth mounding or berms may be used but shall not be used to achieve more than three (3') feet of the required screening. Fencing may be constructed from masonry, brick or wood and can't exceed a height of (6') feet. Fences exceeding this height require a conditional use permit.

If the City Council of Centerville requires screening as a condition for a variance, conditional use, or interim use permit, the applicant must complete the screening requirements within one year of the building permit. The applicant must provide a cash escrow or a letter of credit in an amount of 150% of the estimated cost of planting and construction of the screening. If cash escrow will be forfeited to the city is the provisions of the section are violated.

In the City of Duluth, industrial properties abutting properties zoned commercial, institutional, or mixed use, a landscape buffer must be provided by following Option A or Option B. Option A requires a landscape buffer width of at least 10 feet with one tree planted every 40 feet of the boundary line and large four shrubs per 20 feet of the boundary line. Option B requires an opaque wall, berm, fence or vegetative screen (50% opacity) that's at least 6 feet tall. If a fence or wall is provided, the side facing away from the industrial use must look as complete in appearance as the side facing the industrial use, and three small shrubs per 25 feet of boundary line is required.

The City of East Bethel requires a landscaping escrow from each district. A letter of credit or cash escrow shall be supplied by the owner in an amount equal to at least 150% of the approved estimated landscaping costs.

In the City of Elko New Market, commercial, industrial, and institutional uses shall provide screening along the boundary of any abutting residential district or where the side or rear of the use is separated from any residential district by a public right of way. Screening must consist of a 20' wide greenbelt strip of evergreen and or/deciduous trees and plants within a minimum height of 6'. A fence may be installed but not in lieu of the green belt planting strip. The fence must provide a solid screening effect and be a minimum of six (6') feet in height but cannot exceed eight (8') feet in height.

In Forest Lake, all commercial, multi-family, industrial, PUD, and non-residential use districts must supply a credit or cash escrow in an equal amount to at least 125% of the approved estimated landscaping costs. If the landscaping is not completed within the required time of the building permit and other approvals, the city may complete the work required at the expense of the owner.

Isanti's Zoning Ordinance states that landscaping must be completed prior to the issuance of a Certificate of Occupancy. The City will deposit the applicant's money into an escrow account until the work is completed or 12 months. If the applicant fails to comply to the landscaping

requirements within 6 months of receipt of the escrow payment, the City will complete landscaping required using the escrow funds.

According to the City of Jordan's Zoning Ordinance, any business or industry adjacent to a property developed for residential or highway commercial use, the business or the industry shall provide an earth berm at a minimum of 6' in height and screening along the boundary of the residential and/or commercial property. Screening shall also be provided where a business, parking lot, or industry is located across the street from a residential zone, but not on that side of a business or industry considered to be the front. Screening required in that section may consist of fences, trees, shrubs, and berms, but shall not extend within 15' of any street driveway. The screening shall be placed along property lines or in case of screening along a street, it must be 20' from the street right-of-way with landscaping between the screening and pavement. Industrial sites shall contain a minimum of one tree per 40 feet of the site perimeter.

The City of Lakeville requires that if any commercial or industrial use abuts a residential district, it shall provide the following screening and greenbelt strip requirements:

- 1) A greenbelt planting strip may consist of evergreen trees and/or deciduous trees and shrubs and shall be a minimum of twenty feet (20') in width. The planting strip must be a minimum height of eight feet (8'). Shade trees must have a minimum diameter of 2 ½" and ornamental trees (flowering crabs, hawthorn, serviceberry, etc.) must have a minimum diameter of 2". Shade trees include Buckeye/Chestnut, Maple, Birch, Hornbeam, Hickory, Northern Catalpa, Hackberry, Black Walnut, Elm, Oak, Linden, Quaking Aspen, Eastern Cottonwood, Ironwood, and Kentucky Coffeetree. Acceptable conifers include Fir, Eastern Red Cedar, Larch, Dawn Redwood, Spruce, Pine, Northern White Cedar, and Baldcypress. Tree centers shall not be located closer than 10' from the fence or property line and shrub centers shall not be less than 5' from fence or property line.
- 2) A fence may be installed but not in lieu of the greenbelt. The fence may be constructed of masonry, brick, vinyl, or maintenance free composite materials. Such fence shall provide a solid screening effect and shall be a minimum of six feet (6') in height but shall not exceed eight feet (8') in height. Fences in excess of eight feet (8') in height shall require an administrative permit subject to the approval of the zoning administrator.

The City of Savage requires that multi-family residential, commercial, industrial and mixed-use developments must follow §152.522 of the Zoning Ordinance regarding outdoor storage screening. Outdoor storage must be screened from the public-right of way, public use areas, and residential properties. The screening standards mandate that screening should provide 90% opacity through solid fences, or walls, berming, landscaping or a combination. The screening fences or walls must look appealing and be complimentary to the finished construction of the primary structure. Vegetative screening must consist of healthy plants at a minimum height of 6 feet and at least a year-round opaqueness of 90% once mature.

In Scott County, commercial or industrial use properties that abut Rural Residential, Residential Suburban, Transition Reserve or Urban Expansion Zoning Districts, screening standards must be met. Screening must also be provided if the business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front. The greenbelt planting strip shall consist of evergreens, deciduous trees, shrubs, and plants to compose an 80% opaque visual screen and reasonable buffer viewed at a 90 degree angle from greenbelt

planting strip. The trees must be a minimum height of 6' tall. Deciduous trees shall be planted not more than 40' apart and evergreens shall be planted no more than 12' apart. Where plant materials are planted in two or more rows, plantings shall be staggered in rows. Fences may be built but not in lieu of the greenbelt. Fences shall provide 80% opacity and be a minimum of 6' in height but may not exceed 8'. An earth berm may be used but shall not be used to achieve more than eight (8) feet of the required screen.



118 Central Avenue North, New Prague, MN 56071
phone: 952-758-4401 fax: 952-758-1149

MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: JOSHUA M. TETZLAFF, CITY ADMINISTRATOR
KEN ONDICH, PLANNING / COMMUNITY DEVELOPMENT DIRECTOR
TIM APPLIN, POLICE CHIEF
SUBJECT: ADOPTION OF ORDINANCE CREATING NEW CHAPTER 132 TO THE CITY CODE
RELATING TO PUBLIC USE OF CANNABIS AND HEMP PRODUCTS AND THE
SMOKING OF ANY SUBSTANCE ON PUBLIC PROPERTY
DATE: AUGUST 24, 2023

As the Council is aware, at the July 17th, 2023 City Council meeting an interim ordinance (moratorium) was approved until January 1, 2025 (unless repealed earlier) so that the City can further study the effect of the state’s new law regarding cannabis, specifically related to cannabis businesses regarding time/place/manner restrictions.

As noted during discussion at the City Council meeting on August 7, 2023, the law that took effect statewide on August 1, 2023 does not prohibit use (which can include smoking or ingesting cannabis) in “public spaces” but cities can prohibit use in public places, similar to how Section 110.21 of the City Code states where alcohol cannot be consumed. Public places can be defined by each city and can include parks, city property, trails, sidewalks, streets or even places of business where outdoor smoking is otherwise allowed. General consensus of the City Council directed staff to draft ordinance language for review at the August 21st Council meeting that would limit only the smoking aspect of public cannabis use which was not limited by the new state law that went into effect on August 1st.

The draft ordinance introduced at the August 21st Council meeting included a ban on smoking tobacco in public places (except for public streets, boulevards and sidewalks and the golf course), in addition to using (both smoking and ingesting) cannabis in public places, however the Council amended the ordinance language at the meeting to ban cannabis use on the golf course. A redline and final version of the ordinance is included for review.

Recommendation

Staff would like the Council to conduct a second reading of the proposed ordinance at tonight’s meeting and consider adoption.

ORDINANCE NO. 339

CITY OF NEW PRAGUE

AN ORDINANCE AMENDING TITLE XIII OF THE CITY CODE BY CREATING A NEW CHAPTER 132 AS TO THE PUBLIC USE OF CANNABIS AND HEMP PRODUCTS AND THE SMOKING OF ANY SUBSTANCE ON PUBLIC PROPERTY

The City of New Prague Ordains:

SECTION 1. The recitals set forth above in this ordinance are incorporated herein by reference.

SECTION 2. Chapter 132 of Title XIII of the City of New Prague City Code is hereby created by adding the material as follows:

CHAPTER 132: PUBLIC USE OF CANNABIS AND HEMP PRODUCTS AND SMOKING OF ANY SUBSTANCE ON PUBLIC PROPERTY

Section

- 132.01 Definitions
- 132.02 Cannabis and Hemp Use Prohibited In Public Places
- 132.03 All Smoking and Vaporizing Prohibited on Public Property
- 132.04 Penalty

132.01 DEFINITIONS:

For purposes of this chapter, the terms “**Cannabis Flower,**” “**Cannabis Products,**” “**Lower-Potency Hemp Edibles,**” and “**Hemp-Derived Consumer Products**” shall have the definitions given to them in Minnesota Statutes, section 342.01, as it may be amended from time to time.

PUBLIC PLACE: Property owned, leased, or controlled by a governmental unit which includes, but is not limited to public parks (including ballparks, trails, playgrounds), streets (including all public right of way including sidewalks and boulevards), school property, public parking lots, public library, New Prague Utilities Commission facilities, but does not include the following:

- ~~1. The New Prague Golf Course’s outdoor space that is more than 200’ from any building held open to the public, including the clubhouse, patio, and on-course refreshment buildings;~~
- ~~2.1.~~ a private residence including the person’s curtilage or yard;
- ~~3.2.~~ private property not generally accessible by the public, unless the person is explicitly prohibited from consuming cannabis flower, cannabis products, lower-potency hemp edibles, or hemp derived consumer products on the property by the owner of the property; or
- ~~4.3.~~ the premises of an establishment or event licensed to permit on-site consumption.

132.02 CANNABIS AND HEMP USE PROHIBITED IN PUBLIC PLACES

(A) No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place.

~~(B) The active smoking, inhaling, or vaporizing of cannabis flower, cannabis products, or hemp derived consumer products is prohibited when within 50 feet of any city employee within the New Prague Golf Course.~~

132.03 ALL SMOKING AND VAPORIZING PROHIBITED ON PUBLIC PROPERTY

(A) The smoking or vaporizing of any substance, including cannabis and hemp as identified in Section 132.02 and tobacco as defined in Chapter 117, is expressly prohibited in all public places except the following:

- (1) smoking and vaporizing tobacco is not prohibited on streets (including all public right of way including sidewalks and boulevards) unless otherwise prohibited by ordinance, state, or federal law; and
- (2) smoking or vaporizing of tobacco is not prohibited while within the New Prague Golf Course.

132.04 PENALTY

Violation of this section shall be a petty misdemeanor.

SECTION 3. This ordinance shall take effect upon its passage and publication, in accordance with Section 3.13 of the City Charter.

Introduced to the City Council of the City of New Prague, Minnesota, this 21st day of August, 2023.

The required 10 days posted notice was completed on the City Website and City Hall Bulletin Board on August 22nd, 2023.

Passed by the City Council of the City of New Prague, Minnesota, this 5th day of September, 2023 and to be published on the 14th day of September, 2023.

Duane J. Jirik, Mayor

State of Minnesota)

)ss. (CORPORATE ACKNOWLEDGMENT)

County of Scott & Le Sueur)

Subscribed and sworn before me, a Notary Public this _____ day of _____, 2023.

Notary Public

ATTEST: _____

Joshua M. Tetzlaff, City Administrator

State of Minnesota)

)ss. (CORPORATE ACKNOWLEDGMENT)

County of Scott & Le Sueur)

Subscribed and sworn before me, a Notary Public this _____ day of _____, 2023.

Notary Public

THIS INSTRUMENT DRAFTED BY:

Kenneth D. Ondich

City of New Prague

118 Central Ave. N.

New Prague, MN 56071

(952) 758-4401

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Duane J. Jirik, Mayor

State of Minnesota)

)ss. (CORPORATE ACKNOWLEDGMENT)

County of Scott & Le Sueur)

Subscribed and sworn before me, a Notary Public this _____ day of _____, 2023.

Notary Public

ATTEST: _____

Joshua M. Tetzlaff, City Administrator

State of Minnesota)

)ss. (CORPORATE ACKNOWLEDGMENT)

County of Scott & Le Sueur)

Subscribed and sworn before me, a Notary Public this _____ day of _____, 2023.

Notary Public

THIS INSTRUMENT DRAFTED BY:

Kenneth D. Ondich

City of New Prague

118 Central Ave. N.

New Prague, MN 56071

(952) 758-4401

**RESOLUTION #23-04-17-05
AMENDING AND RESTATING THE RESOLUTION
ESTABLISHING THE NEW PRAGUE GOLF BOARD**

WHEREAS, pursuant to Chapter 2, Section 2.02 of the Home Rule Charter, the City Council has the authority to establish boards and wishes to operate and manage the New Prague Golf Club; and

WHEREAS, in January 1995, the City passed Resolution #95-1-3-4, establishing the New Prague Golf Board; and made amendments to that establishing resolution with Resolutions #97-11-3-2 and #08-04-21-09; and

WHEREAS, the City wishes to modernize and update the rules and powers by which the Golf Board operates.

NOW, THEREFORE, THE CITY OF NEW PRAGUE RESOLVES:

SECTION 1. APPOINTMENT OF THE GOLF BOARD FOR THE CITY OF NEW PRAGUE, MINNESOTA

Section 1.1. Establishment of Golf Board. There is hereby established a board, to be known as the New Prague Golf Course Board (the “Board”). The Board shall have all the powers, duties, and responsibilities as set forth within this Resolution.

Section 1.2. Purpose. The appointment of a Board, pursuant to the provisions, restrictions, and regulations contained herein, is intended to provide the City with a board comprised of representatives from City Government, ~~and~~ City residents, and Golf Club members capable of overseeing the operations of the New Prague Golf Club and directing growth of the Golf Club. The Board shall be under the authority of the City Council.

Section 1.3. Responsibility. The Board shall have primary responsibility for oversight of the Golf Club budget, to direct golf facility policy development, and lead in the planning for growth, development, and improvements of the Golf Club.

SECTION 2. COMPOSITION OF THE GOLF BOARD

Section 2.1. Composition. The seven members of the Golf Board shall be selected or appointed as follows:

- a) One Golf Board member shall be appointed by the City Council from its own members.
- b) The City Council may appoint the remaining Golf Board members to serve at large. To be eligible for appointment, a person must either be a resident of New Prague or have an interest in the continued development of the New Prague Golf Club. No more than two (2) non-residents may serve on the Board.

Commented [JT1]: This is set at no more than two non-residents, so that never at any point may non-residents hold a majority.

- c) The City Council has the final discretion as to who may serve on the Board in the best interest of the New Prague Golf Club and New Prague community at large.

Section 2.2. Terms. All terms are for ~~three~~four years. The City Council shall set the term of the board members who are members of the City Council to coincide with their term of office as members of the City Council. All terms shall expire at the City Council meeting at which the Board appointments are made.

Section 2.3. Compensation and Reimbursement. Board members shall be reimbursed for actual expenses as determined and approved by the City Council.

Section 2.4. Vacancies. A vacancy is created in the membership of the Board when a City Council member of the Board ends Council membership or when a Board member's service is terminated prior to the end of a term. A vacancy for this or another reason must be filled for the balance of the unexpired term. To fill the vacancy, the Mayor shall recommend an appointment and City Council shall approve.

Section 2.5. Removal for Cause. A Board member may be removed by the City Council should the City Council determine that a Board members involvement is no longer in the best interest of the New Prague Golf Club or New Prague community at large.

Commented [JT2]: Because the City Council has the ultimate authority, they have the final say on membership. The Board may certainly recommend that someone be removed but Removal for Cause is not contingent on it.

SECTION 3. ORGANIZATION MATTERS

Section 3.1. Staffing. The City Administrator and Golf Club Director shall serve as the staff liaisons for the Board. All other required Board staffing will be appointed by the City Administrator from the City of New Prague staff, for purposes of technical assistance, accounting, purchasing supplies, etc., as needed for operation of the Board.

Section 3.2. By-Laws. The Board may adopt bylaws and rules of procedure.

Section 3.3. Officers. The Board shall elect a president, a vice-president, ~~a treasurer, and a secretary, and an assistant treasurer.~~ The Board shall elect the president, vice-president, ~~treasurer,~~ and secretary annually. A board member ~~may~~not serve as president and vice-president at the same time. The other offices may be held by the same board member. The offices of secretary ~~and assistant treasurer~~ need not be held by a board member.

Section 3.4. Public Money. Board money is public money.

Section 3.5. Legal Services. The Board shall use the services of the City Attorney for its legal needs. The City Attorney is its chief legal advisor.

Section 3.6. City Purchasing. The Board may use the facilities of the City's purchasing department in connection with construction work and to purchase supplies, equipment, or materials.

Section 3.7. Delegation of Power. The Board may delegate to one or more of its agents or employees powers or duties as it may deem proper.

Section 3.8 Employment. The Board shall comply with the City’s administrative and employment practices.

SECTION 4. FINANCIAL MATTERS

Section 4.1. Budget to the City. The Board shall annually submit its budget to the City Council for approval, according to a schedule provided by the City Administrator. The budget must include a detailed written estimate of the amount of money that the Board expects to need from the City to perform its business during the next fiscal year.

Section 4.2. Fiscal Year. The fiscal year for the Board shall be the same as the City.

Section 4.3. Report to City. Annually, at a time and in a form fixed by the City Council, the Board shall make a written report to the Council giving a detailed account of its activities and of its receipts and expenditures during the preceding calendar year, together with additional matters and recommendations it deems advisable for the operations of the Golf Club.

Commented [JT3]: This is new. It is not currently being done.

Section 4.4 Funding. It is intended that activities related to the New Prague Golf Club be funded primarily through user charge and there shall be established one or more enterprise funds to account for such activities. Any funding that is transferred to the New Prague Golf Club from other City funds is intended to be temporary in nature and not a permanent source of funding.

Section 4.5 Transfer of Funds. Except when previously pledged by the Board, the City Council may by resolution require the Board to transfer any portion of the reserves generated by activities of the Golf Club that the City Council determines are not necessary for the successful operation of the Golf Club to the debt service fund of the City, to be used solely to reduce tax levies for bond indebtedness of the City.

SECTION 5. SCHEDULE OF POWERS

Section 5.1. Operations and Management. The Board shall have authority to operate and manage the New Prague Golf Club, working in conjunction with the City Administrator, and their designees, within the confines of the budget that is approved by the City Council.

Commented [JT4]: This does include a Golf Club Manager. Should the position ever change to a full-time position, this wording would change, as the full-time position would work with the Golf Club, similar to how City staff works with the other Boards.

Section 5.2. Acquisition of Property. No property may be leased, purchased, gifted, devised, or condemned by the Board without prior approval by the City Council.

Section 5.3. Future Planning. The Board shall be responsible for drafting and keeping a future planning document. This document will include, but not be limited to, expected future projects, sources of funding, and timelines for completion.

Commented [JT5]: Future plan documents are expected to look out five years. The Board would either do this themselves, or have their designees do the work. In the other Boards, the boards work with staff members to do this.

Section 5.4 Improvement Contracts. The Board may enter into contracts for improvements at the New Prague Golf Club for amounts of less than \$50,000 if the amount is within the approved budget of the Golf Club and within the approved future planning document if the golf fund has the available balance to support improvement. Any contracts for improvements that do not meet these criteria must be approved by the City Council.

Section 5.5. Studies, Analysis, and Research. The Board may study and analyze needs of the Golf Club, and ways to meet those needs.

Section 5.6. Public Relations. To further advance its purpose, the Board may: (1) join an official, industrial, commercial, or trade association, or other organization concerned with the purpose; (2) have a reception of officials who may contribute to advancing the Golf Club and its operations; and (3) carry out other public relations activities to promote the City and the Golf Club.

SECTION 6. DEBT ISSUANCE.

Section 6.1. Debt Issuance. The Board cannot issue debt obligations without prior approval of the City Council.

Section 6.2. Pledge. All bonds issued by the City Council for the debt obligations of the Golf Club must be secured by the full faith, credit, and resources of the City.

SECTION 7. SALE OF PROPERTY

Section 7.1. Power. The Board may not sell and convey property owned by the City without prior approval by the City Council.

SECTION 8. DATE EFFECTIVE

Section 8.1. Adoption. This resolution shall be adopted upon affirmative vote of the majority of the City Council.

Section 8.2. Effect. This resolution shall be in full force upon its adoption and shall continue until such a time as it may be amended or rescinded by the City Council.

Section 8.3. Conflicts. Any conflicts arising out of the conduct and operation of the Board shall be resolved with reference to Minnesota Statutes, and if there arises any conflict between this resolution and Minnesota Statutes, Minnesota statutes shall prevail.

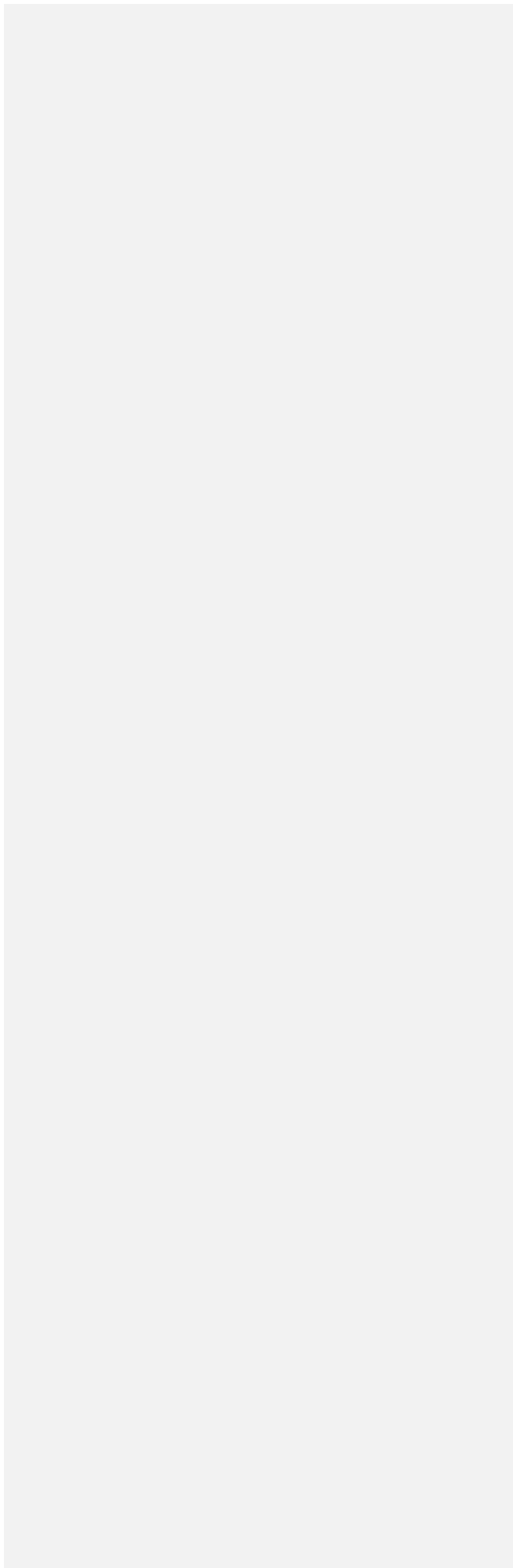
Date Adopted: 9/18/2023

New Prague City Council

Duane J. Jirik

ATTEST:

Joshua M. Tetzlaff





118 Central Avenue North, New Prague, MN 56071
phone: 952-758-4401 fax: 952-758-1149

MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: JOSHUA TETZLAFF, CITY ADMINISTRATOR
SUBJECT: GOLF CLUB RULES AND REGULATIONS
DATE: AUGUST 31, 2023

In my time with the City of New Prague and meeting with the Golf Board, the Board has had questions numerous times about what it is able to do as a Board and what the Board should be pursuing. Looking into the powers given to the Board, I was unable to find any bylaws of any sort or specific powers given to the Board.

With that, I worked with the Board to put together the attached first draft of operating procedures and regulations. The structure is similar to how the EDA was recently updated, with obvious changes to take into account the scope of the Board.

Please review the draft resolution and be prepared to discuss and give an opinion. I am not looking for a decision on this draft, and plan on bringing it back at a future meeting for final approval.

Recommendation

I recommend reviewing the first draft of the Golf Board Rules and Regulations.



118 Central Avenue North, New Prague, MN 56071
phone: 952-758-4401 fax: 952-758-1149

MEMORANDUM

TO: CITY COUNCIL
FROM: DUANE JIRIK, MAYOR
SUBJECT: CITY ADMINISTRATOR EVALUATION
DATE: AUGUST 30, 2023

On August 21, 2023, the City Council met in a closed session to review the performance of Josh Tetzlaff as the New Prague City Administrator. During that review, as a group we found that Mr. Tetzlaff had grades of Meet Expectations and Generally Exceeds Expectations across areas of

- Supervision
- Leadership
- Execution of Policy
- Community Relations
- Administrative Duties
- Economic Development
- Intergovernmental Relations
- City Council Relations
- Planning
- Financial Management

Because of this, I am recommending increasing Mr. Tetzlaff’s salary from Step 3 to Step 4 on Grade 19 on the City pay matrix.

Recommendation

I recommend increasing Mr. Tetzlaff’s salary from Step 3 to Step 4 on Grade 19 on the City pay matrix.

Meeting Minutes
New Prague Planning Commission
Wednesday, August 23, 2023

1. Call Meeting to Order

The meeting was called to order at 6:31 p.m. by Chair Dan Meyer with the following members present Brandon Pike, Ann Gengel, and Shawn Ryan. Absent was Jason Bentson.

City Staff Present: Ken Ondich – Planning / Community Development Director, and Kyra Chapman – Planner

2. Approval of Meeting Minutes
A. June 28th, 2023 Regular Meeting

A motion was made by Ryan and seconded by Gengel to approve the June 28th regular meeting minutes. Motion carried (4-0).

3. OLD BUSINESS

A. None.

4. NEW BUSINESS

A. Review of Ordinance Creating New Chapter 154 to the City Code Regarding Rental Dwelling Licenses

Planning Director Ondich introduced the proposed City Code to establish a rental dwelling license. Since 2008, the City has had a rental registration program that tracks rental properties, and their associated contact information. A rental dwelling task force was established in July 2022 to discuss the proposed rental dwelling unit inspection ordinance. Although the Planning Commission hasn't been involved with these discussions, the City Attorney recommended that Planning Commission hold a public hearing before City Council makes a final decision. The proposed ordinance would require rental dwellings to do a rental inspection every two years at a cost of \$100 per building plus \$25 for each additional unit. Inspections are intended to last between 20-30 minutes and are looking for items affecting life/safety such as operable windows, doors, guardrails, and smoke detectors. Rental inspections do not include motels/hotels, nursing homes, licensed group homes, snowbirds, and other properties inspected by county, state or federal properties such as buildings owned by HUD, CDA, and USDA.

Ryan inquired if there are Airbnb rentals in town and if they would require a rental inspection.

Planning Director replied that there are some in town and it will be required.

Meyer commented that it would be hard to regulate if someone decided to Airbnb their home for two weeks and how it was different from those defined as snowbirds renting their homes.

City Attorney Anderson remarked that making rules are different than enforcing them. It would be difficult to determine this since it would require investigating openings/availabilities on Airbnb. Staff could revise the wording in the ordinance as well as the difference between a snowbird and short term rentals.

Pike asked how rental inspections would be scheduled.

Planning Director Ondich explained that the inspections would occur over the span of two years. Rental properties in the city located in Le Sueur county will be inspected every odd year and properties in Scott county will be inspected every even number year. There have been a few discussions on having the inspections every three years.

Pike asked who will be doing the inspections.

Planning Director Ondich clarified that Building Official and Building Inspector will conduct the inspections during the winter months when it's a slower time of year. The rental inspections aren't being proposed to fill staff time.

Pike inquired if the inspectors will be given any guidelines on how to interact with the tenants during the inspection. The tenants could potentially complain about more things that aren't on the inspection list.

Planning Director Ondich explained that under the current law, if a tenant complains about their rental to the city, the city must notify the landlord and do an inspection. Many tenants are afraid to complain out of fear of being evicted.

City Attorney Anderson explained that the proposed rental inspection would prevent the tenant from being penalized for a complaint.

Planning Director Ondich mentioned that the rental inspection ordinance will be reviewed by City staff and the City Attorney every year to make sure that it's meeting statutory changes. The fee schedule will also be reviewed annually at the end of the year.

Planning Director Ondich also added that when a landlord buys another landlord's property, they will need to do a rental inspection. Many landlords don't know they have to do a rental registration. In the past, staff had to track landlords down by checking their contact information on their utility bills.

Pike asked if staff could expand on violations.

Planning Director Ondich stated that the purpose of the rental inspection is not to nitpick but to ensure the safety of the unit. If there is an issue with the unit, the city would like to hear about it soon rather than wait for the inspection.

City Attorney Anderson said that it's very rare to revoke a rental inspection license. Most landlords want their properties to be habitable for their business. To revoke a rental inspection license, it would have to be brought to council.

A motion was made by Ryan seconded by Pike to open the public hearing at 7:07 pm.

Joe Lambrecht from 2791 Westview Dr. stated that the rental registration ordinance doesn't do anything for the landlord but acts as another tax base. Landlords and tenants can refer to the attorney general handbook or contact lawyers to learn more about their rights. Instead of doing an inspection every two years, it would be better to do it every three years because it's less taxing. The rental registration price could increase within the next 10 years.

City Attorney Anderson stated that one of the main reasons to establish this ordinance was due to the lack of education or ability for tenants to exercise their rights. Tenants have a right to inspections and compliance matters. As of right now, tenants may be scared to address this with the landlord.

Pike commented there could be a way in which the amendment could be more fair to the landlord.

Lambrecht added that the landlord's put time, repair work into their properties while taxes continue to rise each year. The inspection fee ends up being an increase in their rent.

Michele Kotek from 617 1st Ave SE said that \$100 can add up over time. Many families live paycheck to paycheck, which can make it or break it for some people. She didn't understand how weeds or junk were on the rental inspection list.

City Attorney Anderson stated that an accumulation of junk or weeds can harbor vermin, which can eventually lead to property damage to the home.

Kotek stated that the rental registration seems redundant since landlords already have to follow state statute.

City Attorney Anderson explained that a home can go 10-20 years or more without inspections without this ordinance.

Michele suggested that instead of adopting the ordinance, the state handbook should be passed out to landlords and tenants.

Scott Adamek explained that he has several long-term renters, therefore, the inspections will become redundant over time. Tenants may be unhappy having people come in their unit. In Shakopee, they offered a Phase 1 Training to teach landlords how to avoid getting problem tenants. The program was aimed at reducing crime in the City of Shakopee.

Planning Director Ondich explained that in January of 2023, Shakopee started their own rental inspection program. The Crime Free Lease Addendum helps protect the landlords and allows landlords to remove tenants before the end of their lease.

City Attorney Anderson explained that there are two reasons why the city didn't go this route. The main reason is that crime isn't really an issue but rather a way to ensure safety. Secondly, there can be lawsuits when implementing a Crime Free Lease Addendum. If it's not an issue now, the city won't require it.

Dan Dagestad from 617 1st Ave SE advocated for a longer inspection period than two years. Landlords typically fix any issues that are occurring on the property.

Ryan proposed that if a rental property passes inspection, then they don't have to do another inspection for a while. If the rental property fails, then they may have to do an inspection sooner.

City Attorney Anderson explained that this could cause more burden on city staff in terms of labor and time which may indirectly increase the fees.

Kay Wilcox at 310 1st Ave NW explained that when inspectors come in to do the inspections, they may be able to notice social issues such as drugs or malnourished children.

City Attorney Anderson stated that the inspectors will be able to observe issues on the property and contact the police if they'd like.

A motion was made by Ryan seconded by Pike to close the public hearing at 7:47 pm. Motion carried (4-0).

A motion was made by Ryan seconded by Pike to approve the proposed ordinance to City Council with the suggestion to add the laddering inspection timespan to the ordinance. Motion carried (4-0).

B. Review of Zoning Ordinance Amendment – Screening Requirements

Planner Chapman introduced the screening ordinance amendments. She stated that since the previous Planning Commission meeting, a section on the industrial uses along arterial roadways and warranty and escrow were added to the proposed ordinance amendment. If an industrial use abuts an arterial roadway, the applicant must obtain a conditional use permit to make sure the property is adequately screened. The warranty and escrow section requires that the screening trees must be alive and planted by the end of the 1-year warranty time period. Sites that are completed between October 15th and before May 15th shall have until July 1st to plant the required trees but will only be issued a temporary certificate of occupancy until that time.

Planning Director Ondich clarified that as of right now, the two arterial within the city are TH 21 & 19. Section (4)(2) of the proposed screening ordinance is similar to the residential occupancy requirement.

Pike inquired what the escrow will cost on the fee schedule.

Planning Director Ondich said that the fee could be a set dollar amount like it is for residential properties, or it could be a percentage of the value of the landscaping.

Ryan suggested that the wordage could include “forfeiture” if the work isn’t done or completed by the timeframe.

Pike inquired what “forfeiture” would mean.

Planning Director explained that forfeiture means that the City would take whatever money the business had from their escrow and do the work for them if not done by the timeframe. Staff can do more research on what bigger cities are doing.

A motion was made by Ryan seconded by Pike to open the public hearing. Motion carried (4-0). The public hearing opened at 8:03 pm.

A motion was made by Pike and seconded by Gengel to close the public hearing. Motion carried (4-0). The public hearing closed at 8:04 pm.

A motion was made by Ryan and seconded by Pike to forward the ordinance amendment as written but with some potential modifications on escrow language. Motion carried (4-0).

5. Miscellaneous

A. Complete Streets Policy Discussion

The topic was tabled for next month’s meeting.

B. Comprehensive Plan Update

Planning Director presented the Comprehensive Plan Update. MSA is currently trying to schedule a third Steering Committee meeting. Steering Committee is currently reviewing/revising the land use map. There will be a joint meeting with Planning Commission and City Council to occur shortly after the next Steering Committee meeting.

C. Interim Ordinance (Moratorium) for Cannabis Businesses – Ord. #338

Planning Director Ondich explained that in July of 2023, City Council passed an interim ordinance on cannabis businesses. The moratorium will end on January 1st, 2025 or earlier. State won’t issue licenses to retail it until the office of Cannabis Management is set up. City Council just introduced an ordinance that prohibits cannabis use in public places. Individuals may smoke on their property, in their yard, and events which allow cannabis use. Businesses can decide to allow their customers to use cannabis or not.

Pike asked if cannabis can be used in public places.

Planning Director Ondich explained that cannabis is prohibited on sidewalks, streets, alleys, or parks. State law specifically also doesn't allow cannabis use to be in close proximity to children.

Gengel asked if there is any interest in a municipal cannabis dispensary.

Planning Director Ondich said that it could be a possibility.

D. Monthly Business Updates

Planning Director Ondich presented the August Business updates. He explained that one new home permit was issued in July for a total of 7 residential home permits this year. MVE Biological Solutions are on their third phase of expansion, which includes the addition to the east side of their building. There is continued interest in the three industrial lots in the industrial district.

7. Adjournment

A motion was made by Ryan, seconded by Gengel, to adjourn the meeting at 8:12 pm. Motion carried (4-0).

Respectfully submitted,



Kyra J. Chapman
Planner



UTILITIES COMMISSION MEETING MINUTES

City of New Prague

Monday, August 28, 2023 at 3:30 PM

Power Plant - 300 East Main St

1. CALL TO ORDER

The meeting was called to order by Commission President Dan Bishop on Monday, August 28, 2023, at 3:32 p.m.

Commissioners Present: Dan Bishop, Dick Jordan, Paul Busch

Commissioners Absent: Tom Ewert, Bruce Wolf

Staff Present: GM Bruce Reimers, EOS Ken Zweber, and Finance Director Robin Pikal

2. APPROVAL OF AGENDA

Motion made by Commission Jordan and seconded by Commissioner Busch to approve the agenda as presented. Motion carried (3-0).

3. APPROVAL OF MINUTES

- a. July 31, 2023, Utilities Meeting Minutes

Motion made by Commissioner Busch and seconded by Commissioner Jordan to approve the July 31, 2023, Meeting Minutes. Motion carried (3-0).

4. UTILITY AND SMMPA BILLS

- a. Approval of accounts payable in the amount of \$73,232.48 and the SMMPA billing of \$608,890.20.

Motion made by Commissioner Jordan and seconded by Commissioner Busch to approve. Motion carried (3-0).

5. FINANCIAL REPORTS

- a. Finance System Update (Note: This information is not available this month due to software change.)

- b. Investment Summary (Note: This information is not available this month due to software change.)

- c. Water and Kilowatt Hours Sales

Motion made by Commissioner Bishop and seconded by Commissioner Busch to approve all reports as presented. Motion carried (3-0).

6. APPROVAL OF ELECTRIC CAPITAL EQUIPMENT EXPENDITURE

- a. Ford F550 Cab Chassis Truck

Motion made by Commissioner Jordan, seconded by Commissioner Busch, to approve capital equipment expenditure in the amount of \$58,300 for a 2024 F550 Cab Chassis from Jeff Belzer’s Ford. Motion carried (3-0).

7. SMMPA BOARD OF DIRECTORS MEETING

- a. July 12, 2023

- b. August 9, 2023

GM Reimers informed the Commission on the following:

- SMMPA hit an all-time new system peak load on August 23 of 547 Mega Watts.
- Board approve Fairmount transmission project.
- SHERCO 3 has been up and running the last few weeks and was available for the peak loads.

8. GENERAL MANAGER'S REPORT

a. Comprehensive Plan

GM Reimers informed the Commission on the following:

- The water department had a failure on well #2 and it has been replaced at a cost of \$28,000.
- Thanked Commissioner Paul Bush and Commissioner Tom Ewert for joining him in Duluth for the MMUA summer conference.
- NPU reached a new summer peak load on August 23 of 17.3 MW.
- Staff has been working on the new software implementation the last couple of weeks and will hopefully be totally implemented by mid-September.

9. OTHER BUSINESS

None

10. ADJOURNMENT

A motion was made by Commissioner Jordan and seconded by Commissioner Busch to adjourn the August 28, 2023, meeting @ 4:22 p.m.

NEXT COMMISSION MEETING - Monday, September 25, 2023

Respectfully Submitted,

Bruce Reimers
General Manager