

City of La Crescent
Planning Commission
Meeting Notice



January 7th, 2025 - 5:30 P.M.
LA CRESCENT COMMUNITY BUILDING
336 SOUTH FIRST STREET

Agenda

1. Call To Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of November 6th, 2024 Meeting Minutes
5. Appointment of Chair and Vice Chair
6. Request for Waiver from Master Plan and PUD Requirements for property located at 270 E. Strupp Ave., La Crescent MN (PID 2512510000) - Cannabis & Glass
7. Review of Job Duties and Responsibilities - Attorney, Skip Wieser
8. Future agenda items- Commission Members
9. Adjourn

MINUTES, REGULAR MEETING
PLANNING COMMISSION, CITY OF LA CRESCENT, MINNESOTA
November 6th, 2024

The Planning Commission met at 5:30 p.m., on November 6th, 2024, in the City's Community Building located at 336 S. 1st Street.

Item 1. Call to Order

Chair Greg Husmann called the meeting to order at 5:30p.m.

Item 2. Pledge of Allegiance

Members recited the Pledge of Allegiance.

Item 3. Roll Call

Upon a roll call taken and tallied by Josh Tarrence, Building Inspector, the following members were present: Chair Greg Husmann, Vice Chair Christopher Langen, Mike Welch, Dave Hanifil, Judy Enright, Jerry Steffes, and Don Hogan. Ex-Officio City Council Representative Cherryl Jostad and City Attorney Skip Wieser were also present.

Item 4. Introduction of new Planning Commission Member

Chair Husmann addressed this item before the Roll Call was taken and tallied. He welcomed Commissioner Don Hogan as the newest Planning Commission member and congratulated Vice Chair Christopher Langen on being elected as a La Crescent City Council representative.

Item 5. Approval of the July 2nd, 2024 Planning Commission Minutes

After reviewing the minutes from the July 2nd, 2024 meeting, a motion to accept the minutes, was made by Vice Chair Langen and seconded by Commissioner Welch. Upon a roll call vote taken and tallied by Josh Tarrence, Building Inspector, the following Members voted in favor thereof, viz;

Chris Langen	Yes
Mike Welch	Yes
Dave Hanifil	Yes
Don Hogan	Yes
Greg Husmann	Yes
Judy Enright	Yes

And none voted against the same. Jerry Steffes abstained from the vote. The motion was declared duly carried.

Item 6. Public Hearing – Text Amendments to existing Zoning Ordinance regarding zoning of cannabis businesses.

Draft text amendments to zoning ordinance are Exhibit A.

City Attorney Skip Wieser addressed the Planning Commission in regards to adult-use cannabis and how it was legalized in the State of Minnesota. Attorney Wieser then explained the text amendments to the City of La Crescent Zoning Ordinance as drafted. Attorney Wieser addressed any questions asked by the Planning Commission.

The floor was opened to the public for questions or comments. Ex-Officio City Council Representative Cherryl Jostad addressed the Planning Commission to address her personal views on the text amendments and the City Ordinance in regards to adult-use cannabis.

Also addressing the Planning Commission, was Jeff Erickson, 402 N 3rd St.

After asking three times for other questions or comments, the floor was closed to the public.

City Attorney Wieser clarified some of the questions and comments that were addressed by the public.

After more discussion and comments by the Planning Commission, a motion was made to accept the text amendments to the La Crescent Zoning Ordinance as drafted by Commissioner Enright. The motion was seconded by Vice Chair Langen. Upon a roll call vote taken and tallied by Josh Tarrence, Building Inspector, the following Members voted in favor thereof, viz;

Judy Enright	Yes
Chris Langen	Yes
Don Hogan	Yes
Greg Husmann	Yes
Jerry Steffes	Yes

and the following voted against thereof, viz;

Dave Hanifl	No
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Mike Welch abstained from the vote. The motion was declared duly carried.

Item 7. Ordinance of the City of La Crescent to regulate cannabis businesses

This was an informational item for the Planning Commission discussing the City Ordinance in regards to the regulations for cannabis businesses within the City of La Crescent. No action needed

Item 8. Future Agenda items

Commissioner Steffes asked about the status of amending the corner lot language in regards to the zoning ordinance. Attorney Wieser advised that the intention was to hire a consultant to review and edit the zoning ordinance but the funds did not make it into the 2025 budget. The new intention is for it to take place late or early 2026.

Item 9. Adjourn

A motion was made to adjourn the Planning Commission Meeting by Commissioner Welch and seconded by Commissioner Enright. Upon a voice vote, all members voted in favor of and none voted against the same.

The Chair adjourned the Planning Commission meeting at 6:21 p.m.

Exhibit A

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF LA
CRESCENT REGARDING THE ZONING OF CANNABIS BUSINESSES

The City Council of La Crescent ordains:

SECTION 1. That the following provisions of the Zoning Ordinance of the City of La Crescent are hereby amended as follows:

12.21 CBD – CENTRAL BUSINESS MIXED USE DISTRICT (CBD-1 and CBD-2)

Is hereby amended to include the following provisions with subparts relabeled accordingly.

Subd. 2. PERMITTED USES. Within the CBD district, no structure or land may be used, except for one or more of the following uses:

- A. Bakery.
- B. Cannabis businesses licensed or endorsed for cannabis retail.
- C. Copy shop.
- D. Financial services, without drive-through.
- E. Hotels, motels, inns and bed and breakfast establishments serving transient guests.
- F. Multi-family attached residential dwellings, with a minimum density of 8 units per acre, which may include units combining living and working space within the unit, if all units on the same floor of a building are such.
- G. Office, including medical and dental.
- H. Public buildings.
- I. Public infrastructure.
- J. Restaurants, without drive-through.
- K. Retail goods and services within a fully enclosed building.
- L. Places of assembly

Subd. 3. CONDITIONAL USES. Within the CBD district, no structure or land may be used for one or more of the following except by Conditional Use permit:

- A. Taverns.
- B. Childcare.

- C. Dry cleaning drop-off, incidental pressing and repair without on-site cleaning.
- D. Financial services, with drive through.
- E. Health clubs and fitness centers.
- F. Laundromats.
- G. Mortuary or funeral home.
- H. Multi-family attached residential dwellings, with a minimum density of 8 units per acres, if purely residential units and units combining living and working space within the units are mixed on the same floor of a building.
- I. Museum.
- J. Manufactured Home Park.
- K. Theater with a maximum of one screen or stage.
- L. Age Restricted, Senior Living Facility including Assisted Living.
- M. Cannabis businesses licensed or endorsed for delivery.

12.22 C-1 HIGHWAY COMMERCIAL DISTRICT

Is hereby amended to include the following provisions with subparts relabeled accordingly.

Subd. 2. PERMITTED USES. Within any C-1 Highway Commercial District, no structure or land shall be used except for one or more of the following uses:

- A. Bakery
- B. Bowling Alley with no more than eight (8) lanes
- C. Cannabis businesses licensed or endorsed for cannabis retail
- D. Copy Shop
- E. Financial Services, without drive through
- F. Health clubs and fitness centers
- G. Hotels, Motels, Inn
- H. Office, including Medical and Dental
- I. Public Buildings
- J. Public Infrastructure

- K. Restaurants, without drive through
- L. Retail goods and services within a fully enclosed building
- M. Temporary/seasonal outdoor sales use, subject to the provisions of this title.

Subd. 4. CONDITIONAL USES. Within a C-1 district, no structure or land shall be used for the following uses except by a conditional use permit:

- A. Animal hospital
- B. Auto filling station, car wash or oil change, and auto repair and maintenance.
- C. Auto sales and rental.
- D. Cannabis businesses licensed or endorsed delivery.
- E. Childcare
- F. Dry cleaning drop-off, incidental pressing and clothing repair without on-site cleaning
- G. Financial services, with drive through
- H. Garden supply store or greenhouse with or without outdoor storage or display
- I. Laundromats
- J. Mortuary or funeral home
- K. Museum
- L. Pawn shops, provided the operator meets license requirements established by the City Council and provided an inventory in the shop is provided on a weekly basis to the Chief of Police.
- M. Personal Services, such as beauty shops
- N. Private clubs and lodges
- O. Repair shops, excluding engine repair
- P. Restaurants, with drive through
- Q. School
- R. Showroom (indoors only)
- S. Theater, assembly hall or arena

12.24 I - INDUSTRIAL DISTRICT

Subd 4. CONDITIONAL USES.

- A. Heavy manufacturing, no emission industries
- B. Food processing industries
- C. Manufacturing industries with emissions
- D. Waste disposal sites and facilities
- E. Bulk fuel storage facilities
- F. Mini Storage Buildings.
- G. Cannabis businesses licensed or endorsed for cultivation.
- H. Cannabis businesses licensed or endorsed for cannabis manufacturer.
- I. Cannabis businesses licensed or endorsed for wholesale.
- J. Cannabis businesses licensed or endorsed for transportation.
- K. Other industrial uses

12.55 DEFINITIONS LISTED

Is hereby amended to include the following:

Adult-Use Cannabis Product: As defined under Minnesota Statutes, section 342.01 , subd .4.

Cannabis Business. A cannabis microbusiness, cannabis mezzobusiness, cannabis cultivator, cannabis manufacturer, dispensary, cannabis wholesaler, cannabis transporter, cannabis testing facility, cannabis delivery services, or medical cannabis combination business licensed, or any use otherwise authorized, under Minnesota Statutes, Chapter 342.

Cannabis Cultivation: A cannabis business licensed for planting, growing, harvesting, drying, curing, grading, or trimming of cannabis plants cannabis flower, hemp plants, or hemp plant parts by a business licensed or authorized to cultivate cannabis or medical cannabis pursuant to Minnesota Statutes Chapter,342.

Cannabis delivery service. A person or entity licensed or otherwise authorized to purchase cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products from licensed cannabis microbusinesses with a retail endorsement, cannabis mezzobusinesses with a retail endorsement, dispensaries, medical cannabis dispensaries, and medical cannabis combination businesses; transport and deliver cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumable products to customers;

and perform other actions pursuant to Minnesota Statutes, Chapter 342.

Cannabis or lower-potency hemp edible manufacturing. An entity licensed or otherwise authorized for the creation of cannabis concentrate and manufacture of cannabis products and hemp-derived consumer products for public consumption pursuant to Minnesota Statutes, Chapter 342, an entity licensed or authorized to purchase hemp and artificially derived cannabinoids to make hemp concentrate; manufacture artificially derived cannabinoids and hemp edibles for public consumption; package and label lower-potency hemp edibles for sale to customers; sell hemp concentrate, artificially derived cannabinoids, and lower-potency hemp edibles to other cannabis businesses and hemp businesses; and perform other actions pursuant to Minnesota Statutes, Chapter 342, or an entity in possession of a medical cannabis processor license pursuant to Minnesota Statutes, Chapter 342

Cannabis mezzobusiness. A person or entity licensed to cultivate, manufacture, and sell products containing cannabis and related supplies and products and perform other actions authorized under a cannabis mezzobusiness license pursuant to Minnesota Statutes, Chapter 342.

Cannabis microbusiness. A person or entity licensed to cultivate, manufacture, and sell products containing cannabis and related supplies and products and perform other actions authorized under a cannabis microbusiness license pursuant to Minnesota Statutes, Chapter 342.

Cannabis Retail Business: A state licensed retail location and the retail location(s) of a mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, excluding lower-potency hemp edible retailers, pursuant to Minnesota Statutes, Chapter 342.

Cannabis Retailer: Any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.

Cannabis testing facility. A facility licensed to obtain and test immature cannabis plants and seedlings, cannabis flower, cannabis products, hemp plant parts, hemp concentrate, artificially derived cannabinoids, lower-potency hemp edibles, and hemp-derived consumer products from cannabis microbusinesses, cannabis mezzobusinesses, cannabis cultivators, cannabis manufacturers, cannabis wholesalers, lower-potency hemp edible manufacturers, medical cannabis cultivators, medical cannabis processors, medical cannabis combination businesses, and industrial hemp growers pursuant to Minnesota Statutes, Chapter 342.

Cannabis transporter. An entity licensed or otherwise authorized to transport immature cannabis plants and seedlings, cannabis flower, cannabis products, artificially derived cannabinoids, hemp plant parts, hemp concentrate, lower-potency hemp edibles, and hemp-derived consumer products from a cannabis business to a cannabis business pursuant to Minnesota Statutes. Chapter 342.

Cannabis wholesaler. An entity licensed or authorized to obtain, store, and sell or otherwise transfer cannabis or hemp seeds, plants, flower, or other products for the purpose of resale or other transfer to a cannabis business but not to consumers, pursuant to Minnesota Statutes, Chapter 342.

Dispensary. An entity in possession of a cannabis retailer license or otherwise authorized to acquire, possess, transfer, sell, dispense, or distributes products containing cannabis and related supplies and products pursuant to Minnesota Statutes, Chapter 342.

Lower Potency Hemp Edible: As defined under Minnesota Statutes, section 342.01 , subd .50.

Lower-potency hemp edible retailer. A person or entity licensed or authorized to acquire, possess, transfer, sell, dispense, or distribute lower-potency hemp edible products and related supplies and products pursuant to Minnesota Statutes, Chapter 342.

Medical cannabis combination business. An entity authorized to cultivate, manufacture, and sell cannabis, hemp, and cannabis and hemp related supplies and products, and perform other actions authorized under a medical cannabis combination license pursuant to Minnesota Statutes, Chapter 342.

Office of Cannabis Management: State of Minnesota Office of Cannabis Management, as may be referred to as "OCM" in reference to this title.

Public Place: A public park or trail, public street or sidewalk; any enclosed, indoor area used by the general public, including, but not limited to, restaurants; bars; any other food or liquor establishment; hospitals; nursing homes; auditoriums; arenas; gyms; meeting rooms; common areas of rental apartment buildings, and other places of public accommodation.

Retail Registration: An approved registration issued by the city to a cannabis retail business.

State License: An approved license issued by the Office of Cannabis Management to a cannabis retail business.

12.10 GENERAL PROVISIONS

Is hereby amended to include the following:

Subd. 19. GENERAL PERFORMANCE STANDARDS – CANNABIS BUSINESS

All cannabis businesses must be in compliance with Ordinance No. _____ of the City of La Crescent and all applicable state laws and regulations relating to the operation of a cannabis business.

SECTION II. This provision shall become effective from an after due passage and enactment and publication, according to law.

Passed and enacted this _____ day of _____, 2024.

SIGNED:

Mayor

ATTEST:

City Clerk



November 27, 2024

Mayor, City Council and Planning Commission
City of La Crescent
315 Main Street
La Crescent, MN 55947

Transmitted via email to:

Josh Tarrance, Building Inspector, jtarrance@cityoflacrescent-mn.gov
Bill Waller, City Administrator, bwaller@cityoflacrescent-mn.gov
Skip Wieser, City Attorney, EMAIL
Shawn Wetterlin, Building Official, swetterlin@cityoflacrescent-mn.gov

RE: Request for Waiver from Master Plan and PUD Requirements for property located at
270 E. Strupp Ave., La Crescent MN (PID 2512510000)

Dear Mayor, Members of the City Council and Planning Commission,

Please accept this letter on behalf of Cannabis & Glass as a formal request for a Waiver from the City Code requirements established in City Code Section 12.23 C-PD Commercial Planned Unit Development Overlay for the property located at 270 E. Strupp Ave., in La Crescent, MN. The Applicant, Cannabis & Glass, is proposing to construct a new ~12,000 square foot Cannabis Dispensary on the subject parcel and to utilize the C-1 Commercial zoning standards to develop the site.

Per City Code Section 12.23 Subd. 5 Waiver states:

"The City Council may waive the requirement that a master plan be prepared and reviewed in accordance with the Planned Unit Development (PUD) standards of this title, if what is proposed for the site is in accordance with all other provisions of the Zoning Ordinance, is consistent with the City's Comprehensive Plan and is presented to the Planning Commission, who shall hold a public meeting, and provide a recommendation prior to City Council action."

On November 21, 2024 the Cannabis & Glass team met with City Staff to discuss the proposed development of the subject parcel with a new commercial/retail cannabis dispensary. The discussion helped our team understand the process and timeline for development of the site, and it was determined that the first step in the process was to submit a formal request for 1) a Waiver from the PUD and Master Plan process so that the C-1 Zoning District standards would guide the site development; and 2) to submit a Concept Plan for concurrent consideration demonstrating how the site lays using the C-1 dimensional and site standards.



To that end, the following summary of the attached Concept Plan is provided to help in your evaluation of granting the Waiver for the subject request.

Dimensional Standard	Proposed Site Plan Summary	C-1 Highway Commercial Code Reference
Proposed Use	Cannabis Dispensary	A Cannabis Dispensary is a permitted use in the draft Cannabis and Hemp Business ordinance. Per the C-1 requirements, Retail goods and services within a fully enclosed building are permitted by-right. The proposed use is consistent with this standard.
Lot Area, Width and Depth	1.41 Ac. (61,400 Square Feet) ~300' (width) ~204' (depth)	Subd. 5 Lot Area, Lot Width and Yard Requirements establishes a minimum lot area of 12,000 SF, minimum width is 80' and minimum depth is 120'. The configuration of the existing lot meets all lot dimensional requirements.
Front Yard Setback	30-40'	Subd. 5 Lot Area, Lot Width and Yard Requirements sets a minimum 30-foot front yard setback. Due to the curvature of the road, the front yard setback varies from the Hwy 14 right-of-way line. As shown on the concept plan, this standard is met.
Side Yard Setback (building)	~25' east, ~72' west	Subd. 5 Lot Area, Lot Width and Yard Requirements establishes a minimum structural setback of 10-feet from a side yard property line. Drive aisles and parking lots are required to be setback a minimum of 5' from the property line, which is a typical standard. As shown on the concept plan, this standard is met.
Side Yard Setback (parking lot)	~7' east and west	
Rear Yard (building)	123'	Subd. 5 Lot Area, Lot Width and Yard Requirements establishes a minimum structural setback of 10' from a rear yard.
Rear Yard (parking lot)	16'6"	
Parking Stalls	75 - 85	The concept plan shows 85 parking stalls, however the 10-stalls located in the northwest corner may need to be adjusted/reduced based on the final stormwater pond design and configuration. A parking ratio of 1:160 SF to 1:140 SF is adequate to meet the dispensary needs and expectations for both customers and employees.
Building Area & Design	~12,000 SF	Subd. 6 General Requirements establishes building design standards. A rendering of the proposed building is shown to demonstrate the anticipated building materials. As shown, the intent is to construct a high-quality structure that is consistent with cannabis industry expectations for construction. (e.g. strategic window placement, door placement/access, etc.) The building façade is broken up into several planes through material changes, window and door articulation.
Landscape Requirements	25% of the site is landscaped, with internal islands within the parking lot area	Subd. 6 General Requirements subsection E. establishes that a minimum of 10% of the total land area within the perimeter of the development area must be landscape. As shown, more than 25% of the total site is landscaped, and landscape boulevards, islands, and other softscape features are integrated into the site plan.
Stormwater	Potential location in northwest corner	The Applicant understands that full stormwater plan and design will need to be submitted as part of the application process. Conceptually, the pond may be located in the northwest corner; however, final design will be completed as part of the development review approval process.



As demonstrated by the summary table, the proposed Cannabis & Glass dispensary use and conceptual plans are consistent with the following:

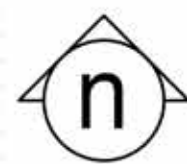
- The City's stated goals and objectives in the adopted Comprehensive Plan that promotes redevelopment, development and investment of the subject parcel.
- The City's C-1 zoning and site dimensional standards.
- The City's requirements in the C-1 zoning district for high-quality, well-designed buildings and architecture to promote redevelopment and development.

For the reasons stated herein, we respectfully request that 1) the Planning Commission recommend approval of our request for a Waiver from the C-PD Master Plan and PUD standards; and 2) that the City Council grant the Waiver for the subject property.

We look forward to working with the City on this exciting project. If you have any questions regarding this request prior to the meetings please do not hesitate to contact us.

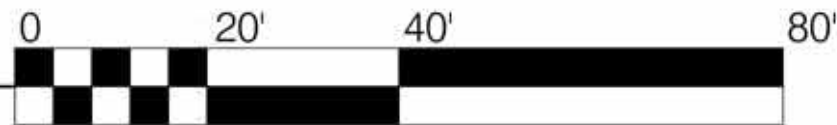
Sincerely,

Jennifer Haskamp, AICP
Swanson Haskamp Consulting, LLC
jhaskamp@swansonhaskamp.com



SCHEMATIC SITE PLAN

SCALE: 1"=20'-0"



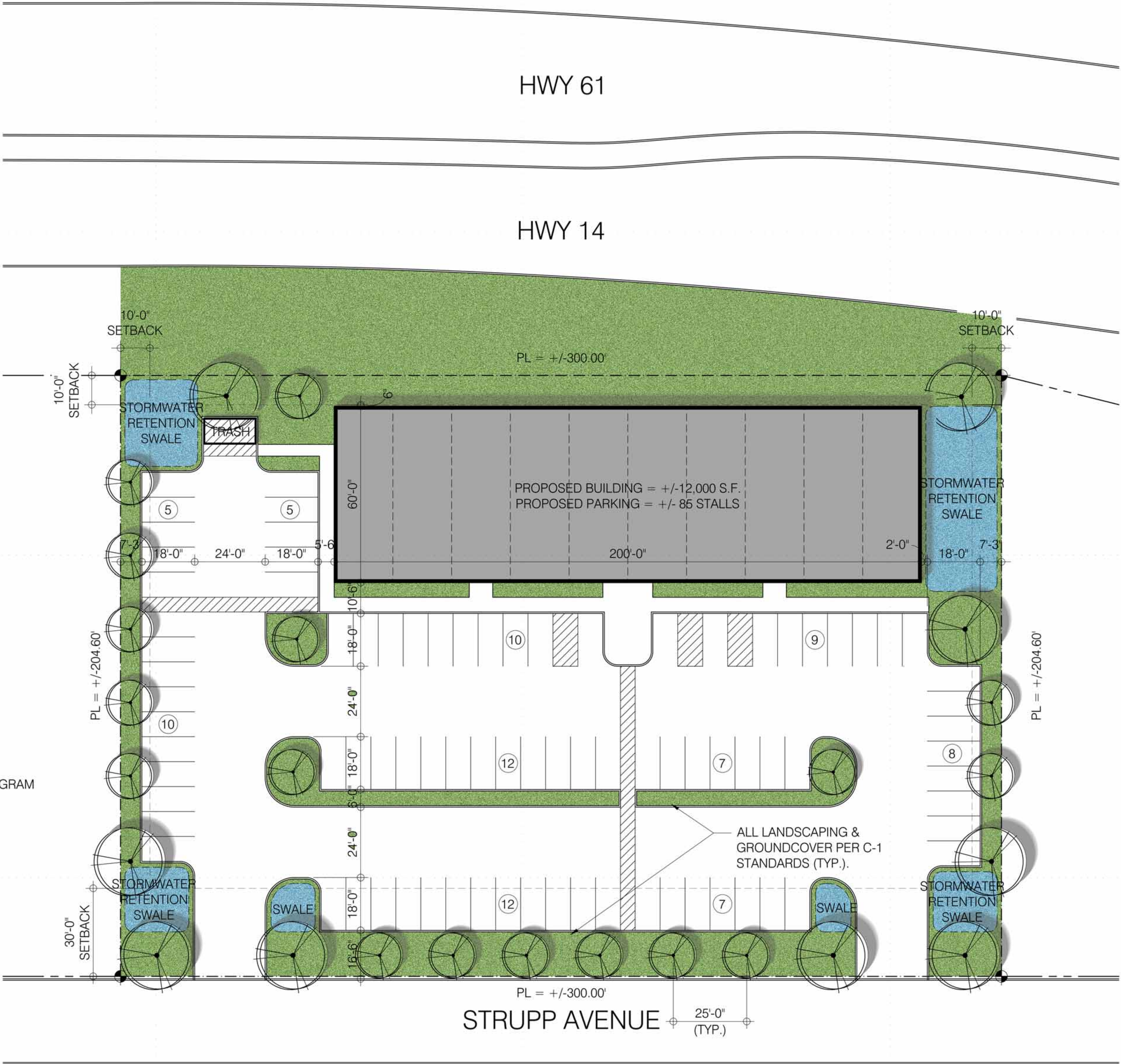
NOTE:
THIS SITE PLAN IS APPROXIMATE AND IS FOR ILLUSTRATIVE PURPOSES ONLY.
IN NO WAY DOES THIS DOCUMENT REPRESENT OR CONSTITUTE A LAND SURVEY.

PROJECT SUMMARY:

JURISDICTION: CITY OF LA CRESCENT
PARCEL #: 251251000
PARCEL SIZE: 61,400 S.F. = 1.41 ACRES
LAND USE: COMMERCIAL/RETAIL
ZONE: C-1 (COMMERCIAL 1), C-PD WAIVED
LAND USE: RETAIL GOODS AND SERVICES WITHIN A FULLY ENCLOSED BUILDING
PROPOSED USE: CANNABIS RETAIL
ZONING/CODE SOURCE: ZONING ORDINANCE, CH. 12, CITY OF LA CRESCENT, MN.
STANDARDS Z.O. CH-12: DENSITY: N/A

LOT COVERAGE: N/A
MAX. HEIGHT: 40' MAX AND MIN. EQUAL TO CBD 2(24)
FRONT SETBACK: 30'-0"
REAR SETBACK: 10'-0"
SIDEYARD SETBACK: 10'-0"
MAX. BUILDABLE AREA: 46,106 S.F.
PARKING MIN/MAX: PARKING TO BE PROVIDED WITH LANDSCAPING AND AREA SIZED PER 12-13 SUBD. 3(10% OF PAVED AREA - 4,959 SF).
LANDSCAPING: 10% OF TOTAL AREA, PER C-1 LANDSCAPE DIAGRAM

PROPOSED PROJECT: TOTAL BUILDING AREA = 12,000 S.F.
TOTAL PARKING AREA = 33,250 S.F.
TOTAL IMPERVIOUS SURFACE = 45,250 S.F.
TOTAL PARKING STALLS = 85
TOTAL LANDSCAPE WITHIN SETBACKS = 5,468 S.F.
TOTAL LANDSCAPE AREA = 15,217 S.F. (25%)



REVISIONS		
#	DESCRIPTION	DATE

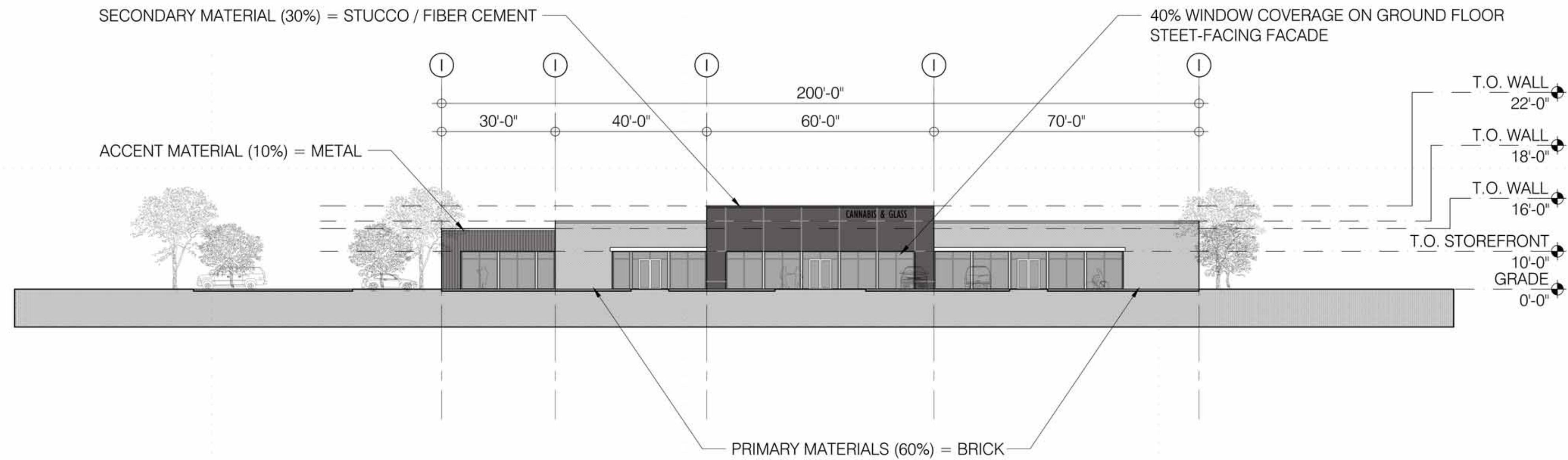
PROGRESS SET: 12.01.24

CANNABIS & GLASS
270 STRUPP AVENUE
LA CRESCENT, MN 55947

PROJECT NO.	24.080
DRAWN BY:	-
CHECKED BY:	-
DATE:	-



SCHEMATIC RENDERING
SCALE: 1"=20'-0"



REVISIONS		
#	DESCRIPTION	DATE

CANNABIS & GLASS
270 STRUPP AVENUE
LA CRESCENT, MN 55947

PROGRESS SET: 12.01.24

PROJECT NO. 24.080
DRAWN BY: -
CHECKED BY: -
DATE: -

A1.02
SCHEMATIC
ELEVATION

2. The applicant shall provide a photometric lighting diagram prepared by a qualified professional showing light levels, in foot-candles, from all exterior artificial lighting for all points on and within ten feet (10') of the site.
3. Lighting levels in exterior parking areas shall average one-half (1/2) foot-candle, with a minimum of one-tenth (1/10) foot-candle in all locations.
4. Lighting levels in interior parking areas shall average two (2) foot-candles, with a minimum of one-half (1/2) foot-candle in all locations.
5. Lighting levels shall comply with the glare provisions of this Title.

12.22 C-1 HIGHWAY COMMERCIAL DISTRICT

Subd. 1. **PURPOSE AND INTENT.** The purpose of the C-1 Highway Commercial District is to provide areas with excellent access and visibility to the regional highway system for high quality commercial and related uses serving La Crescent residents, businesses and visitors. While visitors and passersby on the highways may patronize these businesses, the intent is to create an extension of the City's downtown area with an attractive place for La Crescent residents to meet their needs.

Subd. 2. **PERMITTED USES.** Within any C-1 Highway Commercial District, no structure or land shall be used except for one or more of the following uses:

- A. Bakery
- B. Bowling Alley with no more than eight (8) lanes
- C. Copy Shop
- D. Financial Services, without drive through
- E. Health clubs and fitness centers
- F. Hotels, Motels, Inn
- G. Office, including Medical and Dental
- H. Public Buildings
- I. Public Infrastructure
- J. Restaurants, without drive through
- K. Retail goods and services within a fully enclosed building
- L. Temporary/seasonal outdoor sales use, subject to the provisions of this title.

Subd. 3. PERMITTED ACCESSORY USES. Within any C-1 district, the following uses shall be permitted accessory uses in conformance with district requirements:

- A. Buildings temporarily located for purposes of construction on the premises for a period not to exceed time necessary to complete construction.
- B. Incidental accessory uses as permitted by this title.
- C. Incidental repair, processing, or storage necessary to conduct a permitted principal use subject to standards in this title.
- D. Private garages, off street parking and loading spaces as regulated in this title.
- E. Signs as regulated in this title.
- F. Single satellite earth station antenna one meter (1 m) or less in diameter and single antenna designed to receive direct broadcast services or multichannel, multipoint distribution service one meter (1 m) or less in diameter and antennas designed to receive television broadcast signals.
- G. Tenant restaurants, cafeterias and retail service limited to tenants of the building, provided that they be essentially limited to providing service to the users of the permitted use, and that no signs or other evidence of these uses are visible from the exterior of the building.

Subd. 4. CONDITIONAL USES. Within a C-1 district, no structure or land shall be used for the following uses except by a conditional use permit:

- A. Animal hospital
- B. Auto filling station, car wash or oil change, and auto repair and maintenance.
- C. Auto sales and rental.
- D. Childcare
- E. Dry cleaning drop-off, incidental pressing and clothing repair without on-site cleaning
- F. Financial services, with drive through
- G. Garden supply store or greenhouse with or without outdoor storage or display
- H. Laundromats
- I. Mortuary or funeral home
- J. Museum

- K. Pawn shops, provided the operator meets license requirements established by the City Council and provided an inventory in the shop is provided on a weekly basis to the Chief of Police.
- L. Personal Services, such as beauty shops
- M. Private clubs and lodges
- N. Repair shops, excluding engine repair
- O. Restaurants, with drive through
- P. School
- Q. Showroom (indoors only)
- R. Theater, assembly hall or arena

Subd. 5. LOT AREA, LOT WIDTH AND YARD REQUIREMENTS:

A. Setbacks

- 1. Front 30'
- 2. Side 10'
- 3. Rear 10'

B. Lot Dimensions

- 1. Lot Area 12,000 sq. ft.
- 2. Lot Width 80'
- 3. Lot Depth 120'

C. Building Height 40' maximum and minimum height equal to CBD 2

Subd. 6. GENERAL PROVISIONS.

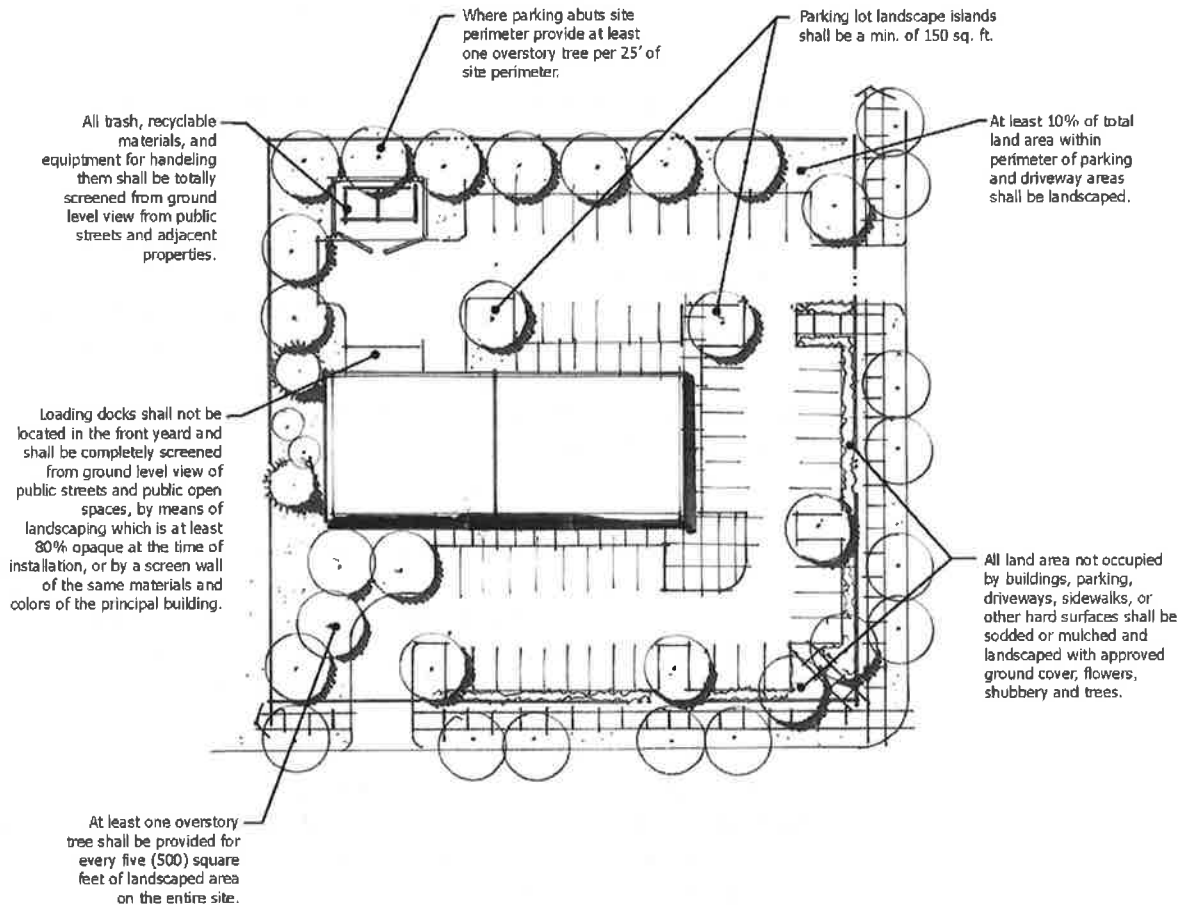
A. Building Design and Materials:

- 1. Building materials in the C-1 district shall be attractive in appearance, durable with a permanent finish, and of a quality that is consistent with high standards of development. Where appropriate, buildings shall carry over materials and colors of adjacent buildings, with the exception of prohibited materials.
- 2. All buildings shall include the following four (4) elements:

- a. Accent materials, which shall be wrapped around walls that are visible from a public street or open space;
 - b. Buildings containing office and retail uses on the first floor shall maintain forty percent (40%) minimum window coverage on each first floor front that faces a street or public open space;
 - c. Complementary major material colors;
 - d. A combination of vertical and horizontal pattern designs in the building facade.
3. Any exterior building wall adjacent to or visible from a public street, public open space, or abutting property may not exceed sixty feet (60') in length without significant visual relief consisting of one or more of the following:
- a. The facade shall be divided architecturally by means of significantly different materials or textures, or
 - b. Horizontal offsets of at least four feet (4') in depth, or
 - c. Vertical offsets in the roofline of at least four feet (4'),
 - d. Fenestration at the first floor level which is recessed horizontally at least one foot (1') into the facade.
4. Exterior building materials shall be classified primary, secondary, or accent materials. Primary materials shall cover at least sixty percent (60%) of the facade of a building. Secondary materials may cover no more than thirty percent (30%) of the facade. Accent materials may include door and window frames, lintels, cornices, and other minor elements, and may cover no more than ten percent (10%) of the facade. Allowable materials are as follows:
- a. Primary exterior building materials may be brick, stone, architectural precast concrete or glass. Bronze tinted or mirror glass are prohibited as exterior materials in the C-1 district.
 - b. Secondary exterior building materials may be any of the primary building materials above, decorative block, integrally colored stucco, or fiber cement siding (color impregnated or painted) in vertical panel design only with hidden seams, and architectural metal.
 - c. Synthetic stucco may be permitted as a secondary material on upper floors only.
 - d. Accent materials may be wood, metal or fiber cement when used in trim, fascia or soffit if appropriately integrated into the overall

building design and not situated in areas which will be subject to physical or environmental damage.

- e. All primary and secondary materials shall be integrally colored, except where otherwise stated.
 - f. Primary exterior building materials for townhome buildings where all units contain an exterior entrance: Allowable primary exterior building materials for townhome buildings shall include brick, stone, glass, integrally colored stucco or fiber cement siding in lap or panel (integrally colored or painted). Fiber cement seam lines on panels shall be architecturally integrated into the building design so that they are not visible. Seam lines can be filled, covered by other accent materials or other method thereby making the seam lines invisible.
 - g. Decorative block shall be colored only by means of a pigment integral to the block material, not applied to the surface.
 - h. Architectural Sheet metal and corrugated metal can be used as an accent only. Asbestos, iron, shakes, plain flat concrete block (whether painted or integrally colored or not) are not acceptable as exterior wall materials on buildings within the C-1 district.
 - i. All mechanical equipment, whether roof mounted or ground mounted, shall be completely screened from the ground level view of adjacent properties and public streets, or designed to be compatible with the architectural treatment of the principal building.
 - j. All exterior trash enclosures or other accessory structures shall be constructed of the same materials and colors as the principal building.
- B. Trash Handling: All trash, recyclable materials, and equipment for handling them, including compactors, shall be totally screened from ground level view from public streets and adjacent properties, whether in the front, side or rear, either by being stored within the principal structure, one hundred percent (100%) screened from view by the principal building, or stored within an accessory structure enclosed by a roof and readily served through swinging doors or an overhead door on tracks.
- C. Loading Areas: Loading areas or loading docks shall be provided for all commercial uses according to their anticipated needs, as determined by the City Council, such loading areas being sufficient in size and location so as to prevent service vehicles from blocking public streets, sidewalks or alleys.
- D. Loading Docks: Loading docks shall not be located in the front yard and shall be completely screened from ground level view of public streets and public open spaces, by means of landscaping which is at least eighty percent (80%) opaque at the time of installation, or by a screen wall of the same materials and colors as the principal building.



E. Landscaping:

1. All land area not occupied by buildings, parking, driveways, sidewalks, or other hard surfaces shall be sodded or mulched and landscaped with approved ground cover, flowers, shrubbery and trees.
2. At least ten percent (10%) of the total land area within the perimeter of private parking and driveway areas shall be landscaped. Landscaped areas provided within the build-to line may be credited toward this ten percent (10%) landscaping requirement on a square foot for square foot basis, for up to half of the ten percent (10%) requirement, or five percent (5%).
3. Parking lot landscaped islands shall be a minimum of one hundred fifty (150) square feet in area and include at least one over-story or evergreen tree meeting the requirements of this title.
4. Where parking abuts the site perimeter there shall be provided at least one over-story tree per twenty five feet (25') of site perimeter.
5. At least one over-story tree shall be provided for every five hundred (500) square feet of landscaped area on the entire site.

6. The landscape plan shall include a full complement of over-story, ornamental and evergreen trees, shrubbery, and ground covers which are hardy and appropriate for the locations in which they are planted, and which provide year round color and interest.

F. Parking Requirements as specified in 12.52

12.23 C-PD COMMERCIAL PLANNED DEVELOPMENT OVERLAY

Subd. 1. PURPOSE AND INTENT. The purpose of the C-PD Planned Development District is to promote planned, high quality development in the commercial area along Highway 61 at the east gateway to the City, as a Planned Unit Development.

Subd. 2. USES. Permitted, accessory and conditional in the C-PD District shall be the same as the respective permitted, accessory and conditional uses in the C-1 except for the following additional Conditional Use.

- a. Auto Repair
- b. Auto Sales and Rental
- c. Construction Yards, for the storage of construction equipment and materials, are conditionally permitted, as well as any necessary buildings for the storage of construction equipment and construction materials, which comply with zoning and applicable building codes. The conditions for approval are as follows and no other conditions are placed on this Conditional Use, including those in 12.06, that are not listed below:
 - 1) that the construction yard be proximal to a construction company's primary office and not be located on the highway frontage.
 - 2) that construction materials be stored on racks or pallets in an orderly and safe manner with perimeter screening of the site by a secure fence and landscaping so the outside storage is screened from view from of public right-of-ways and adjacent properties.

Subd. 3. DEVELOPMENT STANDARDS. Lot standards and general provisions for development within the C-PD shall be the same as for the C-1 District, except for the setback of buildings to the Highway 14/61 frontage, which shall require a build-to line of twenty feet (20') minimum and forty feet (40') maximum.

Subd. 4. MASTER PLAN REQUIRED. All rezoning, plats, site plan approvals or redevelopment plans will be approved by the City within the C-PD District only if a master development plan is submitted and approved which comprises at least three (3) acres of land and is agreed to by all property owners within the master plan area. Such master plan shall be prepared and reviewed according to the Planned Unit Development (PUD) standards of this title.

Subd. 5. WAIVER. The City Council may waive the requirement that a master plan be prepared and reviewed in accordance with the Planned Unit Development (PUD) standards

of this title, if what is proposed for the site is in accordance with all other provisions of the Zoning Ordinance, is consistent with the City's Comprehensive Plan and is presented to the Planning Commission, who shall hold a public meeting, and provide a recommendation prior to City Council action.

Subd. 6. USES IN COMMERCIAL DISTRICTS

Use – P = Permitted, C = Conditional	C-1	CBD	C-PD
Animal hospitals	C		
Assembly Halls		C	
Auto filling station, car wash or oil change and auto repair and maintenance.	C		
Auto sales and rental.	C		C
Bakery	P	P	P
Bowling Alley no more than 8 lanes	P		P
Childcare	C	C	C
Copy shop	P	P	P
Dry cleaning drop-off, incidental pressing and repair without on-site cleaning	C	C	C
Financial services, without drive through	P	P	P
Financial services, with drive through	C	C	C
Garden supply store or greenhouse with or without outdoor storage or display	C		C
Health clubs and fitness centers	C	C	C
Hotels, motels, inns, bed and breakfast	P	P	P
Laundromats	C	C	C
Mortuary or funeral home	C	C	C
Multi-family attached residential dwellings, with a minimum density of 8 units per acres, which may include units combining living and working space within the unit, if all units on the same floor of a building are such		P	
Multi-family attached residential dwellings, with a minimum density of 8 units per acres, if purely residential units and units combining living and working space within the units are mixed on the same floor of a building		C	
Museum	C	C	C

Office, including medical and dental	P	P	P
Outdoor seating within the public right-of-way		C	
Personal services, such as beauty shops	C	C	C
Private clubs and lodges	C	C	C

Use – P = Permitted, C = Conditional	C-1	CBD	C-PD
Assembly Halls	P	P	P
Public buildings	P	P	P
Public infrastructure	P	P	P
Repair shops, excluding engine repair	C	C	C
Restaurants, without drive through	P	P	P
Restaurants, with drive-through	C		C
Retail goods and services in a fully enclosed building	P	P	P
School	C	C	C
Showroom (indoors only)	C	C	C
Tavern		C	
Theaters and arenas	C	C	C
Auto Repair	C		C
Auto Sales and Rental	C		C
Construction yards (with limitations)			C

12.24 I - INDUSTRIAL DISTRICT

Subd. 1. **PURPOSE AND INTENT.** It is the purpose and intent of the I - Industrial District to establish areas within the City of La Crescent for primarily industrial and related uses. The primary function of the I - Industrial District is to provide locations that will not conflict with other uses, are suitable for industrial uses and have good transportation access.

Subd. 2. **PERMITTED USES.** Within the Industrial District, no building or land shall be used except for one or more of the uses identified below:

- A. Wholesaling
- B. Light manufacturing, no emission industries

Planning Commission Guide

Learn ways the city may create, change, or discontinue a city planning commission. Get information on appointment of members, commission powers and duties, and meeting rules. Understand council and planning commission roles in creating a comprehensive plan for growth and development, and how to implement it. Learn about ways to participate in joint or multijurisdictional planning.

RELEVANT LINKS:

[Minn. Stat. § 462.355.](#)
[Minn. Stat. § 473.175.](#)

[Minn. Stat. § 462.352, subd 3.](#)
[Minn. Stat. § 462.354, subd 1.](#)

[Minn. Stat. § 462.354.](#)

[Minn. Stat. § 410.12.](#)
See Handbook, *The Home Rule Charter City*.

I. Creation of a city planning commission

State law encourages all cities to prepare and implement a comprehensive municipal plan. In addition, cities within the seven-county metro area are required to adopt comprehensive plans. Under state law, the city planning commission or planning department is delegated the authority to create the city's comprehensive plan.

A comprehensive plan is an expression of the community's vision for future growth and development. It is also a strategic map to reach that vision. Comprehensive planning is an important tool for cities to guide future development of land to ensure a safe, pleasant, and economical environment for residential, commercial, industrial, and public activities.

The first step in creating a comprehensive plan is the creation of a city planning agency. A planning agency can be either a planning commission or a planning department with an advisory planning commission. Planning commissions are by and large the most prevalent form of planning agencies in Minnesota. This memorandum discusses the commission form of a planning agency in depth. In most instances, the laws related to planning commissions will apply to planning departments as well. However, cities interested in forming a planning department as their main planning agency, or who currently operate a planning department, should consult their city attorney for guidance.

The planning commission must be created by city ordinance or charter provision. When a planning commission is created by ordinance, a simple majority of councilmembers present is needed to adopt the ordinance. When a planning commission is created by charter, the statutory provisions for amending a charter must be followed. In drafting a planning commission ordinance or charter provision, a city will need to include provisions related to:

- Size or number of planning commission members.
- Terms of members.

RELEVANT LINKS:

[Establishing a Planning Commission, LMC Model Ordinance.](#)

- Organization and structure.
- Powers and duties.

A. Size or number of members

State statute does not specify how many commissioners a planning commission should have. As a result, the city ordinance should establish a reasonable number that reflects the needs of the city. An odd number is preferred to avoid tie-vote situations. Generally, cities appoint between five and nine individuals to serve as commission members.

Some considerations in choosing the number of commissioners include:

- Costs to the city in terms of salary (if a salary is paid).
- Availability of community members to serve or potential difficulty in recruiting members to serve full terms.

B. Terms of members

State statute does not set the length of terms for commission members, or impose limits on the number of successive terms that commission members may serve. As a result, city ordinance should establish the length of terms for commission members.

Some considerations in choosing the length of commission terms include:

- The substantial length of time necessary to conduct studies, draft, and adopt a comprehensive plan.
- The extensive body of knowledge that commission members must master to be effective planning commissioners.

These two considerations generally favor a longer, four-year term (rather than a two-year term), since rapid turnover of planning commissioners may hinder the city's efficiency in adopting, implementing, and enforcing its comprehensive plan.

Cities establishing a new planning commission for the first time, may wish to provide staggered terms initially. For example, one term may be for one year, another for two years, and another for three years, etc., with successors serving full four-year terms. Staggering terms in this manner will help ensure long-range continuity for the planning commission, and prevent a situation where all commission seats are vacant at once. This ensures that the planning commission is not without veteran members every four years.

Cities may establish consecutive term limits in their ordinance for commission members if desired. In addition, the city may wish to establish ordinance provisions for the removal of commission members, should it become necessary, in consultation with the city attorney.

RELEVANT LINKS:

See Section IV- *Planning Agency Meetings*.

See *Planning Commission Structure and Procedure*, LMC Model Policy.

[Minn. Stat. § 462.354](#).
See Section III – *Powers and Duties of the Planning Commission*.

[Minn. Stat. § 462.354](#).

C. Organization and structure

The planning commission ordinance may establish an organizational form for the planning commission. For example, the ordinance may require a chairperson, acting chair, and secretary. In the alternative, the ordinance may enable the planning commission to suggest a policy (commonly known as bylaws), subject to council approval, that establishes a form of organization for its meetings. Placing organizational requirements in a policy adopted by council resolution, rather than in ordinance form, is generally preferred, because it provides a more flexible means to develop and amend policies.

D. Powers and duties

If the city creates a planning commission, state statutes prescribe several mandatory duties for the commission. The city ordinance should be drafted to include these duties. In addition, state statute permits some optional duties to be assigned to the planning commission in the council's discretion. City ordinance should make it clear which of these optional duties are assigned to the planning commission. Since state statute contains optional duties, general ordinance language stating that commission duties "shall be as established by state statute" may cause confusion over duties and should be avoided. The powers and duties of the planning commission are discussed more extensively below.

II. Appointment of city planning commission members

A. Council as a whole may serve as the planning commission

The city council may choose to designate itself as the city's planning commission by ordinance. However, most cities choose to establish a planning commission as a separate advisory body. This approach reduces the overall workload of the council, promotes citizen involvement, and allows commissioners to specialize in developing their body of knowledge concerning municipal planning.

B. Authority to appoint commissioners

State statute does not establish a process for the appointment of planning commissioners. As a result, the city ordinance or charter provisions should specify who has the authority to appoint commission members. Generally, appointing authority is vested in the city council as a whole.

RELEVANT LINKS:

In the alternative, cities may vest appointment power in the mayor exclusively, or may vest in the mayor the power to appoint commissioners, subject to council approval.

Some city charters may already contain provisions related to general appointments to city boards and commissions. In these cities, the charter provisions preempt local ordinance.

Cities also should consider adopting a policy for the recruitment and retention of commission members. The policy may be adopted as a resolution and need not be in ordinance form. Adopting the policy via resolution will allow more flexibility in developing and amending the ordinance. Although state law does not require the following, the policy may wish to include information regarding:

- The advertisement period for open positions.
- The submission of letters of interest and a statement of qualifications for board positions, or a city application form.
- An interview process prior to appointment.

C. Residency requirements

State statute does not require that planning commissioners reside within city limits. As a result, city ordinance should specify any residency requirements for serving on the planning commission. Frequently, cities limit eligibility for planning commission membership to city residents. Often, these cities feel that planning commissioners should live in the communities they plan for and create. Conversely, some cities may wish to allow non-residents to serve on planning commissions to increase the pool of eligible citizens. In addition, these cities may feel that property owners or business owners who do not reside within the city may still bring a valuable perspective to the planning commission.

D. Councilmembers and city staff serving on the planning commission

In cities where the council as a whole has decided not to serve as the planning commission, it may still be desirable for some councilmembers to sit on the planning commission or attend commission meetings. Cities may establish in their ordinance or planning commission policy various ways for councilmembers to serve on the planning commission.

1. Full voting members

Local ordinance or commission policy may provide that one or two city councilmembers will participate as full voting members of the planning commission on all decisions, and for discussion and quorum purposes.

See Section II-A, *Council as a Whole May Serve as the Planning Commission*.

RELEVANT LINKS:

See LMC information memo, [Official Conflict of Interest](#). Part IV *Conflict of Interest in Non-Contractual Situations*. 56 Am. Jur. 2d Municipal Corporations § 142.

[Lenz v. Coon Creek Watershed, Dist.](#), 278 Minn. 1, 153 NW 2d 209 (1967). [ETO, Inc. v. Town of Marion](#), 375 NW 2d 815 (Minn. 1985).

2. Non-voting members

Local ordinance or commission policy may provide that one or two city councilmembers will sit on the planning commission as non-voting members. Sometimes these members are called “council liaisons.” When city ordinance creates non-voting members, to avoid confusion, city ordinance or the commission policy should specify:

- Whether the councilmembers will count for quorum purposes.
- Whether the councilmembers may participate in discussion on matters before the commission.
- Whether the councilmembers may hold an office on the commission, such as chairperson, secretary, etc.

3. City staff on planning commission

City ordinance or commission policy may require that the city attorney, city engineer or city administrator/clerk serve as an ex-officio, voting member or non-voting of the planning commission. This, however, does not appear to be a common practice. More commonly, city staff may attend planning commission meetings as needed to provide the planning commission with necessary advice and information.

E. Compensation

City ordinance or commission policy may authorize compensation to planning commission members for their service, or, in the alternative, specify that commission members serve on a strictly non-compensated volunteer basis. Generally, when compensation is provided, it is for a nominal amount on an annual or per meeting basis.

F. Conflicts of interest

When appointing planning commissioners, cities should be aware that appointed officials are subject to the same concerns related to conflict of interest as city councilmembers. In the appointment process, the city council should attempt to discern if potential conflicts of interest exist.

Particularly, conflicts where it is obvious that the potential appointee’s own personal interest is so distinct from the public interest that the member cannot be expected to represent the public interest fairly in deciding the matter.

G. Removal of planning commission members

State statute does not dictate a process for removal of planning commission members before the expiration of their term.

RELEVANT LINKS:

Minn. Stat. § 462.351.
Minn. Stat. § 462.352, subd
5. Sample: [Bethel
Comprehensive Plan](#), City
Population 502.
Sample: [La Crescent
Comprehensive Plan](#),
Population 5,174.
Sample: [Minnetonka
Comprehensive Plan](#), City
Population 51,519.

Local ordinance or commission policy may outline such a process. The city should consult the city attorney before establishing criteria and a process for removal.

III. Powers and duties of the planning commission

State statutes vest the planning commission with certain mandatory duties. In addition, state statute allows the city council to prescribe additional duties in local ordinance. In most instances, unless noted in statute or ordinance, the planning commission serves in an advisory capacity.

A. Preparing and recommending a comprehensive plan

The primary duty of a newly created planning agency is advising the city council on the preparation and adoption of a comprehensive plan for the city.

1. Purpose of comprehensive planning

A comprehensive plan is an expression of the community's vision for the future and a strategic map to reach that vision. Comprehensive planning is not mandatory in cities outside the seven- county metropolitan area. However, comprehensive planning is an important tool for cities to guide future development of land to ensure a safe, pleasant, and economical environment for residential, commercial, industrial, and public activities. In addition, planning can help:

- Preserve important natural resources, agricultural, and other open lands.
- Create the opportunity for residents to participate in guiding a community's future.
- Identify issues, stay ahead of trends, and accommodate change.
- Ensure that growth makes the community better, not just bigger.
- Foster sustainable economic development.
- Provide an opportunity to consider future implications of today's decisions.
- Protect property rights and values.
- Enable other public and private agencies to plan their activities in harmony with the municipality's plans.

For many cities creating a comprehensive plan is the first step in adopting zoning and subdivision regulations for the city.

RELEVANT LINKS:

Minn. Stat. § 462.352, subd.
8.
Minn. Stat. § 462.352, subd.
7.
Minn. Stat. § 462.352, subd.
8.
Minn. Stat. § 462.352, subd.
9.

Minn. Stat. § 462.357, subd
2.
Minn. Stat. § 462.352, subd.
6.
Minn. Stat. § 462.357, subd.
2 (c).

Minn. Stat. § 462.355, subd.
1.
Minn. Stat. § 462.355, subd.
2.

Minn. Stat. § 462.353, subd
2.

As a result, the comprehensive plan normally lays out a vision for the city's future land development and land use, dictating where growth should occur, the type of growth that is allowed in various areas of the city, and the density of such growth. However, a comprehensive plan also may include a:

- Public or community facilities plan.
- Thoroughfare or transportation plan.
- Parks and open space plan.
- Capital improvement program.

While not all cities are required to adopt a comprehensive plan, a plan is still a good practice for a couple of reasons. First, once a plan is adopted, it guides local officials in making their day-to-day decisions and becomes a factor in their decision-making process.

Second, preparing a comprehensive plan prior to the adoption of a zoning ordinance also affords the city additional legal protections if a particular ordinance provision is challenged in court. Zoning ordinances must be reasonable and have a rational basis. Comprehensive plans assist a city in articulating the basis for its zoning decisions. Usually the courts will not question the policies and programs contained in a comprehensive plan adopted by a local community, or question the ordinances based upon the plan, unless the particular zoning provision appears to be without any rational basis, or clearly exceeds the city's regulatory authority.

If a city is not able to develop a comprehensive plan prior to adopting a zoning ordinance, the zoning ordinance should be adopted in conjunction with extensive, written finding of facts, stating the policy reasons that necessitate the ordinance's adoption.

2. Preparing the comprehensive plan

State statute vests authority for preparing the comprehensive plan in the planning commission. However, the city council also may propose the comprehensive municipal plan and amendments to the plan by a resolution submitted to the planning commission. When this occurs, the council may not adopt the recommended language until it has received a report from the planning commission or 60 days have elapsed.

The plan may be prepared and adopted in sections, each of which relates to a major subject of the plan, or to a major geographical section of the municipality.

Cities are authorized to collect and analyze data; prepare maps, charts, tables, and other illustrations and displays; and conduct necessary studies when developing a comprehensive plan. Cities also may hire planning consultants and other experts to assist in drafting their plan.

RELEVANT LINKS:

Minn. Stat. § 462.353, subd. 3.

See LMC information memo, *Competitive Bidding Requirements in Cities*, American Institute of Certified Planners.

Minn. Stat. § 462.355, subd 1.

Minn. Stat. § 462.355, subd 1.

Minn. Stat. § 462.353, subd 2.

Minn. Stat. § 462.355, subd 2.

Minn. Stat. § 462.357, subd. 1h. Minn. Stat. § 462.355, subd. 1.

a. Consultants and public input

(1) Professional planners

Cities may hire planning consultants and other experts to assist in drafting their plan. Preparing a comprehensive plan is a large undertaking. While a planning commission can and should do most of the job, many communities have found they also need professional assistance from a professional planning consultant or a competent person on the staff of the city, county, regional development commission, or neighboring city.

Cities may solicit a planner through a request for proposal. While state law does not require planners to be licensed or certified, many cities prefer to hire planners with professional certification from the American Institute of Certified Planners (AICP). To be certified by the AICP, planners need to pass an exam and meet continuing education requirements.

(2) Other consultants

In drafting the plan, the planning commission must consult with other city departments and agencies (for example, the city's economic development authority).

In drafting a comprehensive plan, the planning commission must consider the planning activities of adjacent units of government and other affected public agencies.

The commissioner of natural resources must provide natural heritage data from the county biological survey, if available, to each city for use in the comprehensive plan.

b. Public input

Cities are required to hold at least one public hearing prior to adopting a comprehensive plan. However, most cities find it helpful to hold a series of public meetings to educate residents about the comprehensive plan, and to solicit citizen input. Some cities even develop extensive public relations campaigns to create excitement about and compliance with the city's comprehensive planning activities.

c. President Theodore Roosevelt Memorial Bill to Preserve Agricultural, Forest, Wildlife, and Open Space Land

Non-metropolitan cities located in certain specified counties are subject to the President Theodore Roosevelt Memorial Act to Preserve Agricultural, Forest, Wildlife, and Open Space Land

RELEVANT LINKS:

[Minn. Stat. § 103G.005, subd. 10b.](#)

[Minn. Stat. § 103G.005 subd. 10b.](#)

[Minn. Stat. § 462.355.](#)

[Minn. Stat. § 462.357.](#)

(hereinafter the “T. Roosevelt Memorial Preservation Act”) and should consult this law if they adopt or amend a comprehensive plan.

(1) Cities not subject to the T. Roosevelt Memorial Preservation Act

Cities in Aitkin, Beltrami, Carlton, Cass, Clearwater, Cook, Crow Wing, Hubbard, Isanti, Itasca, Kanabec, Koochiching, Lake, Lake of the Woods, Milles Lacs, Pine, St Louis and Wadena counties are not subject to the T. Roosevelt Memorial Preservation Act, because they are currently classified as “greater than 80 percent area” counties. A “greater than 80 percent area” means a county or watershed or, for purposes of wetland replacement, bank service area where 80 percent or more of the presettlement wetland acreage is intact and one of the following is true:

- Ten percent or more of the current total land area is wetland.
- Fifty percent or more of the current total land area is state or federal land.

In sum, these “80 percent area” counties still contain a significant portion of their presettlement wetland acreage. “Presettlement wetland” means a wetland or public waters wetland that existed in this state at the time of statehood in 1858.

(2) Cities subject to the T. Roosevelt Memorial Preservation Act

Cities outside the metro area, and not located in the counties listed above, must comply with the act. Even though these cities are not required to engage in comprehensive planning, if the city decides to do so, they must likely adopt certain findings of fact under the T. Roosevelt Memorial Preservation Act.

Specifically, when preparing or recommending amendments to the comprehensive plan, the planning commission in these cities must consider adopting goals and objectives that will protect open space and the environment again, probably as findings of fact.

In addition, within three years of adopting a comprehensive plan, the city must consider adopting ordinances as part of the city’s official controls that encourage the implementation of the goals and objectives of the T. Roosevelt Memorial Preservation Act. However, the city is not required to adopt any ordinances. Consideration of ordinance adoption could potentially be documented in findings of fact.

RELEVANT LINKS:

[Minn. Stat. § 462.355, subd. 2.](#)

[Minn. Stat. § 462.354.](#)

[Minn. Stat. § 473.858, subd. 2.](#)

[Minn. Stat. § 473.175.](#)

[Metropolitan Council.](#)

[City of Lake Elmo v. Metropolitan Council](#), 685 N.W.2d 1 (Minn. 2004).

[Minn. Stat. § 462.355, subd. 2.](#)
[See LMC information memo Newspaper Publication.](#)

[Minn. Stat. § 462.355, subd. 3.](#)

3. Recommending the comprehensive plan to council

Once a comprehensive plan is drafted, the planning commission may submit the plan (or a portion of the plan) with its recommendation for adoption to the city council. Upon receipt of the recommended plan, the council may accept the plan, reject the plan, or recommend revisions to the planning commission. In submitting the comprehensive plan to council, the planning commission serves in a strictly advisory role. The city council ultimately decides on the acceptance, rejection, or revision of the plan, and is not bound by planning commission's recommendations.

4. Adopting the comprehensive plan

a. Seven-county metro area plan review: adjacent units of government

Prior to plan adoption, cities within the seven-county metro area must submit their proposed comprehensive plans to adjacent governmental units and affected school districts for review and comment.

b. Seven-county metro area plan review: Metropolitan Council

Cities in the seven-county metropolitan area must submit their comprehensive plan to the Metropolitan Council for review of its compatibility and conformity with the Council's regional system plans. When the Metropolitan Council determines that a city's comprehensive land use plan may have a substantial impact on or contain a substantial departure from the Metropolitan Council's regional system plans, the Council has the statutory authority to require the city to conform to the Council's system plans.

c. Public hearing requirements

Prior to adoption of a comprehensive plan, the planning commission must hold at least one public hearing. A notice of the time, place, and purpose of the hearing must be published once in the official newspaper of the municipality at least ten days before the day of the hearing.

d. Vote requirements

Unless otherwise provided in a city charter, the city council may, by resolution by a two-thirds vote of all its members, adopt and amend the comprehensive plan or a portion of the plan. This means that on a five-member council, the comprehensive plan must receive at least four affirmative votes.

RELEVANT LINKS:

See Section V: *Changing the Structure or Abolishing the Planning Commission*.

[Minn. Stat. § 462.356, subd 1.](#)

[Minn. Stat. § 462.356, subd 1.](#)

See LMC information memo, *Zoning Guide for Cities*.

LMC information memo *Zoning Decisions*.
See Handbook, *Comprehensive Planning, Land Use, and City-Owned Land*.

LMC information memo, *Subdivision Guide for Cities*.

[Minn. Stat. § 462.355, subd 1.](#)

[Minn. Stat. § 462.355, subd. 1a.](#)

[Minn. Stat. § 473.864, subd. 2.](#)

[Minn. Stat. 473.121, subd. 2.](#)

B. Implementing the plan

Once a comprehensive plan is adopted, the planning commission continues to exist (unless dissolved using statutory procedures). Once a plan is adopted, the main task of the planning commission is to study and propose to the city council a reasonable and practicable means for putting the plan or section of the plan into effect.

Reasonable and practicable means for putting the plan into action may include:

- Zoning regulations.
- Regulations for the subdivision of land.
- An official map.
- A program for coordination of the normal public improvements and services of the municipality.
- A program for urban renewal, and
- A capital improvement program.

In submitting recommendations for effectuation of the comprehensive plan to council, the planning commission serves in a strictly advisory role. The city council ultimately decides on the adoption of any land use ordinances or city programs.

C. Role in periodic review of the comprehensive plan

After a city has adopted a comprehensive plan, the planning commission is responsible for periodically reviewing the plan and recommending amendments whenever necessary.

Cities within the seven-county metropolitan area must review and update their plan, fiscal devices, and official controls at least every 10 years, and submit their revised plans to the Metropolitan Council for review. “Fiscal devices” means the valuation of property, the designation of urban and rural service districts, and the establishment of development districts and any other statutes authorizing the creation of districts in which the use of tax increment bonding is authorized. “Metropolitan area” or “area” means the area over which the Metropolitan Council has jurisdiction, including the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, but excluding the cities of Northfield, Cannon Falls, Hanover, Rockford, and New Prague.

RELEVANT LINKS:

[Minn. Stat. § 462.355, subd. 3.](#)

See Section III-A-4 *Adopting the Comprehensive Plan*.
[Minn. Stat. § 462.355, subd. 3.](#)

[Minn. Stat. § 473.175.](#)
[Metropolitan Council.](#)

[Minn. Stat. § 462.355, subd. 3.](#)

[Minn. Stat. § 462.356, subd. 2.](#)
[Lerner v. City of Minneapolis](#), 284 Minn. 46, 169 N.W.2d 380 (Minn. 1969). A.G. Op. 63-b-24 (Dec. 9, 1971). A.G. Op. 161-b, (Aug. 8, 1966).
See LMC information memo [Purchase and Sale of Real Property](#).

D. Role in amending the comprehensive plan

After a city has adopted a comprehensive plan, all future amendments to the plan must be referred to the planning commission for review and comment. No plan amendment may be acted upon by the city council until it has received the recommendation of the planning commission, or until 60 days have elapsed from the date an amendment proposed by the city council has been submitted to the planning commission for its recommendation.

In submitting review and comment to council, the planning commission serves in a strictly advisory role. The city council ultimately decides on the acceptance, rejection or the revision of the plan, and is not bound by planning commission recommendations.

1. Procedure for amending a comprehensive plan

In amending a comprehensive plan, cities must follow the same procedure for adoption of a new plan. The planning commission must hold at least one public hearing on the amendment preceded by published notice.

Cities in the seven-county metro area must submit all amendments to their comprehensive plans to the Metropolitan Council for review.

Unless otherwise provided by charter, all amendments to the comprehensive plan must be approved by a two-thirds vote of all its members.

E. Role in purchase and sale of real property

After a comprehensive municipal plan or section of a plan has been recommended by the planning commission and a copy filed with the city council, the planning commission must be given a chance to review and comment on all proposed public acquisitions or disposal of real property within the city. This includes acquisitions or disposal by the city, but also:

- Any special district or agency in the city.
- Any other political subdivision (public schools or the county for example) having jurisdiction within the city.

This provision would appear to apply even when the comprehensive plan has not yet been adopted by council, so long as the planning commission has filed its recommended plan with the city.

After review, the planning commission must report in writing its findings to compliance of the proposed acquisition or to disposal of real estate with the comprehensive municipal plan.

RELEVANT LINKS:

Lerner v. City of Minneapolis, 284 Minn. 46, 169 N.W.2d 380 (Minn. 1969). A.G. Op. 161-b (Aug. 8, 1966).

Minn. Stat. § 462.356, subd. 2.

Minn. Stat. § 475.521, subd. 1 (b).

Minn. Stat. § 373.40, subd. 1(b).

The purpose of this requirement is to allow review of overall municipal development by the city planning commission, the authority charged with developing and reviewing the comprehensive land use plan for the municipality.

The planning commission has 45 days to report on the proposal, unless the city council designates a shorter or longer period for review. If the planning commission does not report within the required timeline, this statutory provision is considered waived by the commission.

In addition, a city council may by resolution adopted by two-thirds vote dispense with this requirement when in its judgment it finds that the proposed acquisition or disposal of real property has no relationship to the comprehensive municipal plan.

In submitting comments and review, the planning commission serves in a strictly advisory role. The city council ultimately decides on the purchase or disposal of real estate and is not bound by planning commission recommendations.

F. Role in capital improvements program

After a comprehensive municipal plan or section of a plan has been recommended by the planning commission and a copy filed with the city council, the planning commission must be given a chance to review and comment on all proposed public capital improvements within the city. This includes not only capital improvements built by the city, but also by:

- Any special district or agency in the city.
- Any other political subdivision having jurisdiction within the city.

The planning commission must report in writing to the city council, other special district or agency, or political subdivision concerned, its findings to compliance of the proposed capital improvement with the comprehensive municipal plan.

The term capital improvement is not defined within the comprehensive planning statute. Other laws governing issuing municipal bonds define “capital improvement” in part as acquisition or betterment of public lands, buildings or other improvements for a city hall, town hall, library, public safety facility, and public works facility. An improvement must have an expected useful life of five years or more to qualify. Capital improvement does not include light rail transit or any activity related to it, or a park, road, bridge, administrative building other than a city or town hall, or land for any of those facilities. For purposes of this section, “capital improvement” may include expenditures involving those for which bonds were or are issued.

RELEVANT LINKS:

Lerner v. City of Minneapolis, 284 Minn. 46, 169 N.W.2d 380 (Minn. 1969). A.G. Op. 161-b (Aug. 8, 1966).

Minn. Stat. § 462.357, subd 2.
Minn. Stat. § 462.352, subd 6.

Minn. Stat. § 462.357, subd 2 (c).
For more information see LMC information memo, *Zoning Decisions*.

Minn. Stat. § 462.357, subds. 1a, 1b.
Minn. Stat. § 462.357, subd. 1.
Minn. Stat. § 462.357, subd. 1e.
Minn. Stat. § 462.357, subd. 1g.
Minn. Stat. § 462.357, subd. 1.
Minn. Stat. § 462.357, subd. 1.
Minn. Stat. § 462.357, subd. 7.

Minn. Stat. § 462.357, subd. 7.

Minn. Stat. § 462.357, subd. 7.
Minn. R. 9502.0315 to 9502.0445.
Minn. Stat. § 462.357, subd. 8.

The planning commission has 45 days to report on the proposal, unless the city council designates a shorter or longer period for review. If the planning commission does not report within the required timeline, this statutory provision is considered waived by the commission.

A city council may by resolution adopted by two-thirds vote dispense with this requirement when in its judgment it finds that the proposed capital improvement has no relationship to the comprehensive municipal plan.

In submitting comments and review, the planning commission serves in a strictly advisory role. The city council ultimately decides on capital improvements for the city and is not bound by planning commission recommendations.

G. Role in zoning ordinance adoption and amendment

1. Zoning ordinance adoption

The planning commission may, after adopting a comprehensive plan or a portion of a land use plan, prepare a proposed zoning ordinance (including a zoning map) and submit it to the city council with its recommendations for adoption. If a city adopts only a land use plan, the plan must provide guidelines for the timing and sequence of the adoption of official controls to ensure planned, orderly, and staged development and redevelopment consistent with the land use plan.

Note: The Municipal Planning Act has specific provisions related to local zoning of the following uses, which impact zoning ordinances:

- Manufactured home parks.
- Manufactured homes.
- Existing legal nonconformities at the time of zoning ordinance adoption.
- Feedlots.
- Earth sheltered construction, as defined by Minn. Stat. 216C.06.
- Relocated residential buildings.
- State licensed residential facilities or housing services registered under Minn. Stat. 144D and serving six or fewer persons in single family residential districts.
- Licensed day care facilities serving 12 or fewer persons in single family residential districts.
- Group family day care facilities licensed under Minnesota Rules to serve 14 or fewer children in single family residential districts.
- State licensed residential facilities serving 7-16 persons in multifamily residential districts.

RELEVANT LINKS:

[Minn. Stat. § 462.357, subd. 7.](#)

[Minn. Stat. § 462.3593.](#)
[Minn. Stat. § 462.357, subd. 6.](#)

[Northshor Experience, Inc. v. City of Duluth](#), MN, 442F.Supp.2d 713 (D. Minn. 2006). [Costley v. Caromin House, Inc.](#), 313 N.W.2d 21 (Minn. 1981). A.G. Op. 59-A-32 (Jan. 25, 2002).

[Minn. Stat. § 462.357, subd. 2.](#)

A.G. Op. 59-A-32 (Jan. 25, 2002).

[Minn. Stat. § 462.357, subd 3.](#)

[LMC information memo, Newspaper Publication.](#)

[See LMC information memo, Zoning Guide for Cities.](#)

[Minn. Stat. § 462.357, subd 4.](#)

[For more information see LMC information memo Zoning Decisions.](#)

[See Section IV- B on the 60-Day Rule.](#)

- Licensed day care facilities serving 13-16 persons in multifamily residential districts.
- Temporary family health care dwellings.
- Solar energy systems.

Cities cannot adopt local ordinances that contradict the explicit provisions of state law as set out in the Municipal Planning Act on the uses listed above.

The city council may adopt a zoning ordinance by a majority vote of all its members.

In adopting an ordinance, one Minnesota attorney general opinion has found that charter cities may not provide for different voting requirements in their city charter, because the Municipal Planning Act supersedes inconsistent charter provisions.

Prior to the adoption of a zoning ordinance, the city council or planning commission must hold a public hearing. Notice of the time, place, and purpose of the hearing must be published in the official newspaper of the municipality at least ten days prior to the day of the hearing. When an amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice must be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates.

The drafting and adoption of a city zoning ordinance is covered in detail in the LMC Information Memo, Zoning Guide for Cities.

2. Zoning ordinance amendment

An amendment to a zoning ordinance, including a rezoning, may be initiated by the governing body, the planning commission, or by petition of affected property owners as defined in the zoning ordinance. An amendment not initiated by the planning commission must be referred to the planning commission for study and report. The city council may not act on the proposed amendment (either by adopting or denying the amendment) until the planning commission has made its recommendations or 60 days have elapsed from the date of reference of the amendment without a report by the planning commission.

It is important to note that while state statute provides the planning commission 60 days to respond to proposals, the 60-Day Rule (an entirely different rule with 60 days in the title) still applies to ordinance amendments brought by application or petition of property owners.

RELEVANT LINKS:

[Minn. Stat. § 462.357, subd 3.](#)

[Minn. Stat. § 462.357, subd. 2.](#)

[Minn. Stat. § 462.357, subd. 5.](#)

[Minn. Stat. § 462.3595.](#)

See LMC information memo, [Zoning Guide for Cities](#).

As a result, internal procedures should be developed to coordinate planning commission review that does not violate the 60-Day Rule automatic approval statute.

In generating a report on a proposed zoning amendment, the planning commission serves in a strictly advisory role. The city council ultimately decides on the amendment for the city and is not bound by planning commission recommendations.

Prior to the adoption of a zoning ordinance amendment, a public hearing must be held. Under state statute, the city council or the planning commission may conduct the hearing.

Cities may adopt an ordinance or policy directing the planning commission to conduct these hearings when necessary.

The city council may adopt and amend a zoning ordinance by a majority vote of all its members. However, the adoption or amendment of any portion of a zoning ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of all members of the governing body.

3. Cities of the first class, additional duties for planning commissions

First class cities must follow very detailed procedures in state statute for zoning amendments that change residential zoning classifications to new commercial or industrial classifications. Planning commissions in cities of the first class must assist the city in these circumstances by conducting studies and developing reports. The adoption or amendment of any portion of a zoning ordinance that changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of all members of the governing body. Charter cities of the first class may opt to follow a different procedure via a city charter provision.

H. Conditional use permits

Some city zoning ordinances provide that some uses within a zoning district will only be allowed upon the granting of a conditional use permit.

Conditional use permits are discussed in detail in the LMC Information Memo Zoning Guide for Cities. State statute allows city councils to delegate via ordinance their authority to review and approve conditional use permits to a planning commission or other designated authority.

Planning commissions charged with reviewing applications for conditional use permits must follow fairly strict legal standards for their review.

RELEVANT LINKS:

See LMC information memos
[Zoning Guide for Cities;](#)
[Land Use Conditional Use](#)
[Permits.](#)

[Minn. Stat. § 462.359, subd.](#)
[2.](#)
See Handbook, [City](#)
[Licensing.](#)
[Minn. Stat. § 462.352, subd.](#)
[7, 8.](#)

See LMC information memo,
[Purchase and Sale of Real](#)
[Property.](#)

Specifically, the city must follow the requirements of the zoning ordinance it has adopted.

If a conditional use permit application meets the requirements of the ordinance, generally it must be granted. If an application is denied, the stated reasons for the denial should all relate to the applicant's failure to meet standards established in the ordinance. The standard of review for conditional use permits is discussed in depth in the LMC Information Memo *Zoning Guide for Cities*.

I. Role in adoption of an official map for a major thoroughfare plan and a community facilities plan

After the planning commission has adopted a comprehensive plan containing a major thoroughfare plan and a community facilities plan or simply these portions of their comprehensive plan, it may adopt an official map. The official map is not the zoning map required for adoption of a zoning ordinance.

In addition, it is not the map adopted as part of the comprehensive planning process. Instead, the official map is a unique map designed to help carry out the policies of the major thoroughfare plan and community facilities plan. The official map can cover the entire city or any portion of the city.

The purpose of an official map is to identify land needed for future public uses, such as streets, aviation purposes or other necessary public facilities, such as libraries, city halls, parks, etc. Identification on an official map of land needed for future public uses permits both the public and private property owners to adjust their building plans equitably and conveniently before investments are made that will make adjustments difficult to accomplish.

Official maps do not give a city any right to acquire the areas reserved on the map without just compensation by the city. When the city is ready to proceed with the opening of a mapped street, the widening and extension of existing mapped streets, or the use of lands for aviation purposes, it still must acquire the property by gift, purchase, or condemnation. It need not, however, pay for any building or other improvement erected on the land without a permit or in violation of the conditions of the permit.

Following the adoption and filing of an official map, building permits issued under the Minnesota State Building Code are subject to the provisions set forth in the city's official map. This puts landowners on notice of possible future uses and allows construction to occur within the constraints of the planning.

RELEVANT LINKS:

[Minn. Stat. § 462.354, subd. 2.](#)

[Minn. Stat. § 462.357, subd. 6 \(1\).](#)

[Minn. Stat. § 462.357, subd. 6 \(2\).](#)
[Minn. Stat. § 462.359, subd. 4.](#)

[Minn. Stat. § 462.354, subd. 2.](#)

[Minn. Stat. § 462.354, subd. 2.](#)

[Minn. Stat. § 462.354, subd. 2.](#)

[Minn. Stat. § 462.354, subd. 2.](#)

This way landowners can avoid costly expenditures on developments, for example, that sit in a location planned for future public uses. As a result, any building built without obtaining a building permit or in violation of permit conditions, loses the statutory protection for just compensation, and a municipality need not pay a landowner for a building that needs to be destroyed if a street is widened. In other words, while the official map does not give the city a fee interest in land initially, it does authorize the municipality to acquire such interests in the future without having to pay compensation for buildings that are erected in violation of the official map.

J. Board of zoning adjustment and appeals

A city that has adopted a zoning ordinance or official map should provide for a Board of Zoning Adjustment and Appeals (BZA). By ordinance, a city may delegate the role of a BZA to the city planning commission or a committee of the planning commission. The duties of a BZA include:

- To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of the zoning ordinance.
- To hear requests for variances from a city zoning ordinance.
- To hear and decide appeals when a land use, zoning permit or approval for a building is denied based upon the city's official map.
- Such other duties as the city council may direct.

In any city where the council does not serve as the BZA, the city council may, except as otherwise provided by charter, provide by ordinance that the decisions of the BZA on matters within its jurisdiction are:

- Final, subject only to judicial review; or
- Final, subject to appeal to the council and the right of later judicial review; or
- Advisory to the council.

The ordinance creating the BZA should specify at minimum:

- The time and manner by which hearings by the BZA shall be held, including provisions related to notice to interested parties.
- Rules for the conduct of proceedings before the BZA, including provisions for the giving of oaths to witnesses and the filing of written briefs by the parties.

In cities where the planning commission does not act as the BZA, the BZA may not make a decision on an appeal or petition until the planning commission, or a representative authorized by it, has had reasonable opportunity, not to exceed 60 days, to review and report to the BZA about the appeal or petition.

RELEVANT LINKS:

See information memos, [Zoning Guide for Cities](#) and [Land Use Variances](#).

[Minn. Stat. § 462.358, subd. 3\(b\)](#).

See Handbook, [City Licensing](#). See also LMC information memo, [Subdivision Guide for Cities](#).

See the LMC information memo, [Meetings of City Councils](#).

[Minn. Stat. § 13D.01](#).

It is important to note that while state statute provides the planning commission 60 days to respond to appeals or petitions, the 60-Day Rule (an entirely different rule with 60 days in the title) may still apply to some matters brought before the BZA (for example, requests for variances) by application or petition of property owners. As a result, internal procedures should be developed to coordinate planning commission review that does not violate the 60-Day Rule automatic approval statute.

Planning commissions charged with reviewing applications for variances must follow fairly strict legal standards for their review. Specifically, the city must follow the requirements of the state statute related to whether enforcement of a zoning ordinance provision as applied to a particular piece of property would cause the landowner “practical difficulties.” The standards for review in granting variances are discussed in depth in the LMC Information Memo [Zoning Guide for Cities](#).

K. Role in review of subdivision applications

Absent a charter provision to the contrary, in cities that have adopted a subdivision ordinance, the city council may by ordinance delegate the authority to review subdivision proposals to the planning commission. However, final approval or disapproval of a subdivision application must be the decision of the city council.

Planning commissions charged with reviewing subdivision applications must follow fairly strict legal standards for their review. Specifically, the city must follow the requirements of the subdivision ordinance it has adopted. If a subdivision application meets the requirements of the ordinance, generally it must be granted. If an application is denied, the stated reasons for the denial must all relate to the applicant’s failure to meet standards established in the ordinance. The standard of review for subdivision applications is discussed in depth in an LMC information memo on subdivisions, plats and development agreements.

IV. Planning commission meetings

Planning commission meetings are governed by the same statutes as regular city council meetings. For example, planning commission meetings are subject to the Open Meeting Law and subject to the records retention laws.

A. Open Meeting Law

The Minnesota Open Meeting Law generally requires that all meetings of public bodies be open to the public. This presumption of openness serves three basic purposes:

RELEVANT LINKS:

[Rupp v. Mayasich](#), 533 N.W.2d 893 (Minn. Ct. App. 1995).

[Minn. Stat. § 13D.01, subd. 1.](#)

[Minn. Stat. § 13D.01, subd. 6.](#)

LMC information memo
[Meetings of City Councils.](#)

For more information on the 60-Day Rule see the LMC information memo, [Zoning Guide for Cities](#) Section V-A, The 60-Day Rule.

[Minn. Stat. § 15.99.](#)
[Manco of Fairmont v. Town Bd. of Rock Dell Township](#), 583 N.W.2d 293 (Minn. Ct. App. 1998) cf. [American Tower, L.P. v. City of Grant](#), 636 N.W.2d 309 (Minn. 2001). [Hans Hagen Homes, Inc. v. City of Minnetrista](#), 728 N.W.2d 536 (Minn. 2007) distinguished by [Johnson v. Cook Cty.](#), 786 N.W.2d 291 (Minn. 2010).

See LMC information memo, [Zoning Guide for Cities](#), Section V-A, The 60-Day Rule.

- To prohibit actions from being taken at a secret meeting where it is impossible for the interested public to become fully informed concerning decisions of public bodies or to detect improper influences.
- To ensure the public's right to be informed.
- To afford the public an opportunity to present its views to the public body.

The Open Meeting Law applies to all governing bodies of any school district, unorganized territory, county, city, town or other public body, and to any committee, sub-committee, board, department or commission of a public body. Thus, the law applies to meetings of all city planning commissions and any city or commission advisory boards or committees.

At least one copy of the materials made available to the planning commission at or before the meeting must also be made available for inspection by the public. However, this does not apply to not-public data or materials relating to the agenda items of a closed meeting.

The Open Meeting Law also contains some specific notice and record-keeping requirements which are discussed in detail in the LMC Information Memo Meetings of City Councils.

B. The 60-Day Rule

Cities generally have only 60 days to approve or deny a written request relating to zoning, including rezoning requests, conditional use permits and variances. This requirement is known as the "60-Day Rule."

The 60-Day Rule is a state law that requires cities to approve or deny a written request relating to zoning within 60 days or it is deemed approved. The underlying purpose of the rule is to keep governmental agencies from taking too long in deciding land use issues. Minnesota courts have generally demanded strict compliance with the rule.

All planning commission review of zoning related applications must be completed in a manner that allows the city to complete its entire approval process within the timeframe dictated by the 60-Day Rule. Local ordinance should not establish timeframes for planning commission review of applications or appeal of commission decisions that do not allow the city to comply with the 60-Day Rule.

RELEVANT LINKS:

See [Planning Commission Structure and Procedure](#), LMC Model Policy.

See LMC information memo, [Meetings of City Councils](#).

See LMC information memo, [Zoning Guide for Cities](#), Section V-C-2-b on conducting a public hearing

See Handbook, [Records Management](#).
[Minn. Stat. § 15.17, subds. 1, 2.](#)

See LMC information memo, [Meetings of City Councils](#) for more information on minutes.

See LMC information memo, [Zoning Guide for Cities](#), Section V-C-2 on making a record of the basis for zoning decisions.

C. Commission policies on order and meeting structure

City ordinance may provide for the adoption, subject to the city council's approval, of planning commission policies related to meeting rules of order and procedure (sometimes referred to as bylaws). Such policies should be adopted by resolution, not ordinance. A policy setting forth rules of procedure can help the planning commission run its meetings, prepare agendas, call special meetings and handle public comment appropriately. Because planning commissions often conduct public hearings, the policy should prescribe a procedure for conducting orderly public hearings.

The policy should establish procedures related to:

- Meeting time and place, including provisions for calling special meetings.
- Quorum requirements.
- Voting and making official recommendations.
- Order of proceedings for both regular meetings and public hearings.
- Creating, ordering and submitting items to an official agenda.
- Minute taking and record keeping requirements.
- Appointment and duties of officers, such as chairperson.
- Filling vacancies.
- Creation of management of subcommittees.

D. Minutes and official records

Cities, including city planning commissions, are required by law to create an accurate record of their activities. In addition, cities, including city planning commissions, must retain government records in accordance with the records retention laws.

1. Minutes and records

State law requires all officers and agencies of the state, including planning commissions in statutory and home-rule charter cities, to make and preserve all records necessary for a full and accurate knowledge of their official activities. These records include books, papers, letters, contracts, documents, maps, plans and other items. State statutes do not explicitly require planning commissions to take minutes of their meetings, but such minutes may be necessary to make a full and accurate record of the commission's proceedings.

Minutes are further recommended because the actions of planning commissions and land use decisions, in general, are frequently subject to court review.

RELEVANT LINKS:

LMC information memo
*Taking the Mystery out of
Findings of Fact.*

LMC information memos:
*Taking the Mystery out of
Findings of Fact; Zoning
Decisions.*

Minn. Stat. § 15.17.
Minn. Stat. § 138.225.
Minn. Stat. §§ 138.161-.21.

When a city land use decision is reviewed by a court of law, the court requires cities to document the basis for their land use decisions in written, contemporaneous findings of fact.

Planning commission bylaws or city policy should set the requirements for meeting minute approval and content. For example, a policy may require the minutes to reflect all motions and resolutions and votes taken by the commission. Planning commission policy also may assign responsibility for minute taking to the commission secretary or to a city staff member.

2. Findings of fact

In addition to minutes, whenever the planning commission makes an official recommendation related to a matter referred to it by council or on a land use application submitted to the city (for example, a conditional use permit, zoning amendment, variance or subdivision application), it should create written findings of fact supporting the recommendation. Findings of fact from the planning commission serve three important roles:

- They articulate to the city council the planning commission's recommendations on issues before the commission, including its basis for making its recommendations.
- They communicate to a land use applicant the commission's approval of a project or identify for the applicant disapproval and the reasons for such disapproval.
- They support the city's ultimate decision on the issue should the city's decision be challenged in court.

In land use cases, Minnesota courts are looking for a sufficient statement of the reasons given by the city to grant or deny an application request. The role of the court is to examine the city's reasons and ascertain whether the record before the city council supports them. The reasons given by the city must be legally sufficient and have a factual basis.

Minnesota case law and statutory law demand that the reasons for a city's decision on a land use case be articulated in the official record. Written findings of fact, or "reasons," and conclusions of law are required whenever an application is denied. In addition, written findings of fact and conclusions of law are strongly recommended whenever a decision or recommendation related to a land use decision is made. Findings of fact and creating accurate records are discussed at length in the LMC Information Memo "Zoning Guide for Cities."

3. Records retention requirements

State law limits the ability of cities, including city planning commissions, to dispose of or destroy city records.

RELEVANT LINKS:

A.G. Op. 851F (Feb. 5, 1973). See Handbook, [Records Management](#).

See LMC information memos, [Taking the Mystery out of Findings of Fact](#); Land Use Findings of Fact: Elected Officials as Policy makers and [Zoning Decisions](#).

[Minn. Stat. § 462.354, subd. 1.](#)

[Minn. Stat. § 410.12.](#)
See Handbook, [The Home Rule Charter City](#).

[Minn. Stat. § 462.355, subd. 3.](#)
[Minn. Stat. § 462.356, subd. 2.](#)

[Minn. Stat. § 462.357, subd. 4.](#)

[Minn. Stat. 412.191, subd. 4.](#)

[Minn. Stat. § 410.12.](#)

Cities must retain records that they receive or create according to a records retention schedule. It is a crime to destroy such records without statutory authority.

Maintaining adequate records is also vital for defending the city's land use decisions in a court of law.

V. Changing the structure or abolishing the planning commission

A. Abolishing the planning commission

State statute provides that planning commissions created by city ordinance may be abolished by two-thirds vote of all the members of the governing body. Planning commissions created by city charter can be abolished by following the statutory provisions for amending a city charter.

Cities considering abolishing their planning commission should seek the advice of their city attorney. While state statute allows cities to abolish their planning commission, state statute also vests planning commissions with mandatory duties related to:

- Reviewing amendments to the comprehensive plan.
- Reviewing purchase and sale of public property and capital improvement projects.
- Reviewing zoning ordinance amendments.

Because state statute vests planning commissions with these mandatory duties, it is unclear how a city that has abolished its planning commission would proceed under state statute with necessary amendments to official controls, purchase and sale of property and capital improvements.

B. Modifying the planning agency

Planning commissions created by city ordinance may be modified by an ordinance amendment (for example, to change from a five- to seven-member commission). For statutory cities, the ordinance must be approved by a majority of all members of the city council. Consult the city charter to modify planning commissions created by city charter.

RELEVANT LINKS:

[Minn. Stat. § 462.3535, subd. 1, 2.](#)

[Minn. Stat. § 462.3535, subd. 4.](#)

[Minn. Stat. § 462.358, subd. 1a.](#)

[Minn. Stat. § 462.3585.](#)

VI. Joint or multijurisdictional planning

State statutes create multiple means for cities to collaborate with other governmental bodies, including other cities, counties and towns, on comprehensive land use planning.

A. Community-Based planning

Cities are encouraged, but not required, to prepare and implement a community-based comprehensive municipal plan. This language is very similar to comprehensive planning as discussed above but is not the same. Community-based comprehensive municipal plans contain an element of orderly annexation and/or boundary adjustment planning along with traditional land use and community planning.

In cities that opt for community-based comprehensive municipal plans, the city must coordinate its plan with the plans, if any, of the county and the city's neighbors. Cooperation is designed to:

- Prevent the plan from having an adverse impact on other jurisdictions.
- Complement the plans of other jurisdictions.

In cities that opt for community-based comprehensive municipal plans, the city must prepare its plan to be incorporated into the county's community-based comprehensive plan, if the county is preparing or has prepared one, and must otherwise assist and cooperate with the county in its community-based planning.

Community-based comprehensive municipal plans do not appear to be common. Cities interested in this option should consult their city attorney or a planning consultant.

B. Joint planning boards for unincorporated territory within two miles of the city limits

If a city has already opted to extend the application of its subdivision regulations to unincorporated territory located within two miles of its limits before the creation of a joint board, those subdivision regulations will apply until the joint board adopts subdivision regulations.

If a city has unincorporated area within two miles of the corporate limits of a city, a joint planning board may be formed. A city council or a county board or a town board may require the establishment of a joint planning board on their own initiative by passing a resolution requiring a board to be established. The resolution, once passed, must be filed with the county auditor.

RELEVANT LINKS:

[Minn. Stat. § 462.3585.](#)

[Minn. Stat. § 462.3585.](#)
[Minn. Stat. § 462.354, subd. 1.](#)

[Minn. Stat. § 462.3585.](#)
[Minn. Stat. § 462.354, subd. 2.](#)

[Minn. Stat. § 462.3585.](#)
[Minn. Stat. § 462.355.](#)

[Minn. Stat. § 462.3585.](#)
[Minn. Stat. § 462.355, subd. 4.](#)

[LMC information memo](#)
[Zoning Guide for Cities.](#)

[Minn. Stat. § 462.3585.](#)
[Minn. Stat. § 462.357.](#)

[Minn. Stat. § 462.3585.](#)
[Minn. Stat. § 462.358.](#)

[Minn. Stat. § 462.3585.](#)
[Minn. Stat. § 462.359.](#)

[Minn. Stat. § 462.3585.](#)
[Minn. Stat. § 462.3595.](#)

[Minn. Stat. § 462.3585.](#)
[Minn. Stat. § 462.362.](#)

[Minn. Stat. § 462.3585.](#)

[Minn. Stat. § 462.371.](#)
[See Handbook,](#)
[Intergovernmental](#)
[Cooperation.](#)
[See LMC information memo](#)
[LMCIT Liability Coverage](#)
[Guide.](#)

[Minn. Stat. § 462.372.](#)

The city, county and town must agree on the number of board members for the joint board. However, each participating governmental unit must have an equal number of members. The members must be appointed from the governing bodies of the city, county and town.

Once established, the board is authorized to:

- Serve as the governing body and board of appeals and adjustments within the two-mile area.
- Create a planning agency.
- Create a BZA.
- Adopt a comprehensive plan.
- Adopt interim ordinances. Note that the law on interim ordinances for certain uses is specific and varied. Best practice suggests consultation with the city attorney before adopting interim ordinances.
- Adopt zoning ordinances.
- Adopt subdivision regulations.
- Adopt an official map.
- Provide for and issue conditional use permits.
- Enforce official controls and prescribe penalties for violations.
- Adopt and enforce the State Fire Code.

The city must provide staff for the preparation and administration of land use controls unless otherwise agreed by the governmental units composing the board.

C. Regional planning boards

Any two or more counties, cities or towns may enter into a joint powers agreement to conduct regional planning activities. The participating entities do not need to be contiguous.

The joint powers agreement creating a regional planning agency should:

RELEVANT LINKS:

[Minn. Stat. § 462.373, subd. 1.](#)

[Minn. Stat. § 462.373, subd. 2.](#)

[Minn. Stat. § 462.374.](#)

[Minn. Stat. § 462.375.](#)

[Minn. Stat. § 462.383.](#)

[Minn. Stat. § 462.385.](#)

[Northwest Development Commission.](#)

[Headwaters Regional Development Commission.](#)

[Arrowhead Regional Development Commission.](#)

[West Central Initiative.](#)

- Establish a board composed of members selected from the governing bodies of the participating governmental units.
- Set the number of board members.
- Establish terms of office for board members.
- Establish a method for member appointment and removal.
- Create a framework for adoption of a regional plan, and provide timelines for review and comment on the plan by participating governmental units.
- Create a framework for review of participating governmental unit comprehensive plans and a timeline for comment on such plans by the regional board.

The regional planning board may hire a planning director and staff, including consultants, and appoint an advisory planning commission.

The regional planning board may prepare a plan for the development of the region. However, the plan may not be adopted by the regional planning board until it has been referred to the governing bodies of all participating units for their review and their recommendation.

Once the plan has been prepared, participating governmental units within the region may adopt all or any portion of the regional development plan.

When a regional plan is adopted, the regional planning agency must send a copy of the plan and any future revisions to the commissioner of employment and economic development, to the governing bodies of cooperating governmental units, and to the planning agencies in contiguous areas.

D. Regional development commissions and comprehensive planning activities

Regional development commissions are separate entities from regional development boards discussed above. Regional development commissions are created by state statute to provide a means of pooling the resources of local governments to approach common problems related to urban and rural growth and development.

Development regions are set by state statute and are numbered as follows:

Region 1: Kittson, Roseau, Marshall, Pennington, Red Lake, Polk, and Norman.

Region 2: Lake of the Woods, Beltrami, Mahnomen, Clearwater, and Hubbard.

Region 3: Koochiching, Itasca, St. Louis, Lake, Cook, Aitkin, and Carlton.

Region 4: Clay, Becker, Wilkin, Otter Tail, Grant, Douglas, Traverse, Stevens, and Pope.

RELEVANT LINKS:

[Region Five Development Commission.](#)

[Mid-Minnesota Development Commission.](#)

[Upper Minnesota Valley Regional Development Commission.](#)

[East Central Regional Development Commission.](#)

[Southwest Regional Development Commission.](#)

[Region Nine Development Commission.](#)

[Metropolitan Council.](#)

[Minn. Stat. § 462.39, subds. 4, 5.](#)

[Minn. Stat. § 462.391, subd. 1a.](#)

[LMCIT Land Use Resources.](#)

[Government Training Services. American Planning Association.](#)

Region 5: Cass, Wadena, Crow Wing, Todd, and Morrison.

Region 6E: Kandiyohi, Meeker, Renville, and McLeod.

Region 6W: Big Stone, Swift, Chippewa, Lac qui Parle, and Yellow Medicine.

Region 7E: Mille Lacs, Kanabec, Pine, Isanti, and Chisago.

Region 8: Lincoln, Lyon, Redwood, Pipestone, Murray, Cottonwood, Rock, Nobles, and Jackson.

Region 9: Sibley, Nicollet, LeSueur, Brown, Blue Earth, Waseca, Watonwan, Martin, and Faribault.

Region 10: Rice, Goodhue, Wabasha, Steele, Dodge, Olmsted, Winona, Freeborn, Mower, Fillmore, and Houston.

Region 11: Anoka, Hennepin, Ramsey, Washington, Carver, Scott, and Dakota.

The creation of a regional development commission does not affect the rights of counties or cities to conduct their own planning activities. Instead, regional development commissions are designed to support planning for cities. Cities may request that a regional commission review, comment, and provide advisory recommendations on local plans or development proposals.

VII. Training and resources for planning commission members

Planning commission members perform a vital role for their community. Training materials and seminars can increase the effectiveness of city planning commissioners and are essential for protecting the city's legal interests.

The League of Minnesota Cities Insurance Trust has a Land Use Loss Control Program to assist members through phone consultations and online training. In addition, the Land Use Loss Control Program has extensive written materials available at no cost to members.

Additional training and materials may also be obtained from private vendors such as:

- Government Training Services (GTS).
- The American Planning Association.

CITY OF LA CRESCENT, MINNESOTA

Code of Conduct

Purpose.

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

Standards of Conduct.

Subd. 1. No member of the city council or a city board or commission may knowingly:

- a. Violate the open meeting law.
- b. Participate in a matter that affects the person's financial interests or those of a business with which the person is associated, unless the effect on the person or business is no greater than on other members of the same business classification, profession, or occupation.
- c. Use the person's public position to secure special privileges or exemptions for the person or for others.
- d. Use the person's public position to solicit personal gifts or favors.
- e. Use the person's public position for personal gain.
- f. Except as specifically permitted pursuant to Minn. Stat. 471.895, accept or receive any gift of substance, whether in the form of money, services, loan, travel, entertainment, hospitality, promise, or any other form, under circumstances in which it could be reasonably expected to influence the person, the person's performance of official action, or be intended as a reward for the person's official action.
- g. Disclose to the public or use for the person's or another person's personal gain, information that was gained by reason of the person's public position if the information was not public data or was discussed at a closed session of the city council.
- h. Disclose information that was received, discussed, or decided in conference with the city's legal counsel that is protected by the attorney-client privilege unless a majority of the city council has authorized the disclosure.

Subd. 2. Except as prohibited by the provisions of Minn. Stat Sec. 471.87, there is no violation of subdivision 1 b. of this section for a matter that comes before the council, board, or commission if the member of the council, board, or commission publicly discloses the circumstances that would violate these standards and refrains from participating in the discussion and vote on the matter. Nothing herein shall be construed to prohibit a contract with a member of the city council under the circumstances described under Minn. Stat. Sec. 471.88, if proper statutory procedures are followed.

CITY OF LA CRESCENT, MINNESOTA

Complaint, Hearing.

Any person may file a written complaint with the city clerk alleging a violation of the standards of conduct. The complaint must contain supporting facts for the allegation. The city council may hold a hearing after receiving the written complaint or upon the council's own volition. A hearing must be held only if the city council determines (1) upon advice of the city attorney, designee, or other attorney appointed by the council, that the factual allegations state a sufficient claim of a violation of these standards or rise to the level of a legally-recognized conflict of interest, and (2) that the complaint has been lodged in good faith and not for impermissible purposes such as delay. The city council's determination must be made within 30 days of the filing of the allegation with the city clerk. If the council determines that there is an adequate justification for holding a hearing, the hearing must be held within 30 days of the city council's determination. At the hearing, the person accused must have the opportunity to be heard. If after the hearing, the council finds that a violation of a standard has occurred or does exist, the council may censure the person, refer the matter for criminal prosecution, request an official not to participate in a decision, or remove an appointed member of an advisory board or commission from office.

CITY OF LA CRESCENT COMMUNICATIONS POLICY

POLICY NUMBER: 24

ADOPTED: 3/24/03

UPDATED: 1/12/09 - PER DIEM

UPDATED: 05/28/13

APPROVED BY COUNCIL: 3/24/03
UPDATED 1/12/09 - PER DIEM POLICY

To better serve our citizens and give our workforce the best tools to do their jobs, the City of La Crescent continues to adopt and make use of new means of communication and information exchange. Many of our employees have access to one or more forms of electronic media and services, including, but not limited to, computers, e-mail, telephones, cellular telephones, pagers, voice mail, fax machines, external electronic bulletin, boards, wire services, on-line services, social media, the Internet and the World Wide Web.

The City of La Crescent encourages the use of these media and associated services because they can make communication more efficient and effective and because they are valuable sources of information. However, all employees and everyone connected with the City of La Crescent should remember that electronic media and services provided by the City of La Crescent are City of La Crescent property and their purpose is to facilitate and support City of La Crescent business. No expectation of privacy exists for employees in regards to use of the City of La Crescent's electronic communication systems in any respect related to accessing, transmitting, sorting, or communicating information via the system.

This policy cannot lay down rules to cover every possible situation. The purpose of this policy is to express the City of La Crescent's philosophy and set forth general guidelines governing the use of electronic media and services. By adopting this policy, it is the City of La Crescent's intent to ensure the electronic communication systems are used to their maximum potential for business purposes and not used in a way that is disruptive, offensive to others or contrary to the best interest of the City of La Crescent.

It is recognized that some personal use of communications is necessary, but all personal use should be kept as brief as possible during work time.

GENERAL:

This policy applies to all full-time, regular part-time, part-time, and temporary employees, contractors, volunteers, customers, and all other individuals who are provided access to the City of La Crescent communication systems. This policy does not constitute a contract. Revisions may be made from time to time at the discretion of the City Administrator.

All employees will be provided with a written copy of this policy, which will be signed, and the signature page placed in their personnel file.

MAIL:

The City of La Crescent employees may purchase postage at the City office for use on their personal mail items. Personal mail items may be included with the City's daily delivery of mail to the U.S. Post Office.

TELEPHONE:

Personal telephone calls shall be kept as brief as possible and shall be made during lunch breaks or rest breaks whenever possible. No charge will apply to local calls. Employees may use their own personal calling cards to make long distance calls. All other long distance calls must be reimbursed to the City. Incoming personal calls may be answered by the employee, but they shall be kept as brief as possible. The City of La Crescent staff will take personal messages for employees. Employees should discourage callers from making personal calls on a regular basis. Employees may check for their messages during lunch breaks, rest breaks, or at the end of the workday. If an incoming message represents an emergency, the City staff will make every effort to contact the employee immediately.

FAX:

The City of La Crescent employees may use the City's fax machine on lunch breaks, rest breaks, before work hours, or after work hours to fax personal communications. No charge will apply to local faxes.

CELLULAR PHONE AND CAMERA:

I. PURPOSE/POLICY

A. **Purpose.** This policy is intended to define acceptable and unacceptable uses of cellular telephones, cellular phone cameras, cellular phone video, and still and video photography (hereinafter "Cellular Technology." Its application is to insure that Cellular Technology usage is consistent with the best interest of the City of La Crescent without unnecessary restriction of employees in the conduct of their duties. It is recognized that some personal use of communications is necessary to enhance the efficiency of the employee's time. All personal use should be kept as brief as possible during work time. Employees are to use their Cellular Technology in a safe manner at all times. This policy will be implemented to prevent the improper use of or abuse of Cellular Technology and to insure that City of La Crescent employees exercise the highest standards of propriety in their use.

B. **Policy.** Employees may not post or publish images of victims, images of emergency scenes, the interior of private dwellings, pictures of our residents, or any other non-public information on any websites of personal use such as but not limited to Facebook, MySpace, Instagram and/or other social media is prohibited.

II. GENERAL

This policy applies to all full-time, regular part-time, part-time, temporary employees, contractors, volunteers, customers, and other individuals who are provided access to City of La Crescent communication systems. This policy does not constitute a contract. Revision may be made from time to time at the discretion of the City Administrator.

III. POLICY: EMPLOYEE CELL PHONE PER DIEM AGREEMENT/POLICY

With City Council approval, certain Department Heads and Supervisors shall be entitled to a monthly payment representing a cellular phone allowance. To be eligible for this allowance, a job-related necessity must exist requiring the Department Head/Supervisor to be available, outside of normal office hours. The cell phone allowance must also eliminate a City owned cell phone and/or the need for the Department Head/Supervisor to seek reimbursement for job-related toll charges made on their own personal phone.

This allowance shall be approved with the understanding that the employee will furnish his/her own cellular phone to be used for City business purposes related to his/her job duties. Such cellular phone number shall be readily available to other City Officials and employees, as well as members of the public, to the same extent as if the City were providing him/her with a cellular phone. All use for official City business purposes shall comply with all City of La Crescent policies and auditing/disclosure practices.

In accepting the monthly Per Diem, the Department Head/Supervisor is obligated/required to maintain a cellular phone and calling plan that is sufficient to meet the needs of their position. Factors determining sufficiency include, but are not limited to, adequate amount of minutes or calling time available, adequate phone battery life and adequate reception to be accessible throughout the City, as technology permits.

Effective June 1, 2013, the monthly Per Diem shall increase to \$50.00 per month for eligible Department Head/Supervisors. Said amount may be reviewed as needed by the Council at the first meeting in January each year hereafter or at other times as determined by the Council in the Council's discretion.

The Department Head/Supervisor is also obligated/required to safeguard any City information or conversations discussed on his/her cellular phone and maintain any City data stored or accessible on the cellular phone according to its classification under the Minnesota Government Data Practices Act (MGDPA).

The City of La Crescent does not endorse the practice of City employees using handheld cellular phones, while driving for work related purposes. Therefore, all employees are required to use the cellular phone in an appropriate and safe manner, especially while driving.

INTERNET/E-MAIL:

The City of La Crescent recognizes that the Internet offers a wealth of information that can improve the City's services and the productivity of the City's employees. The City of La Crescent recognizes that e-mail is an efficient and convenient form of communication for both business and personal applications. Confidential information shall not be transmitted via e-mail. E-mail users should be aware the e-mail is easily misdirected or forwarded by the recipient to untold numbers of persons, and the content is easily misconstrued or altered. E-mail and Internet users should also be aware that when they have deleted a message or document from their computer, it may not have been deleted from the entire system and may be stored on the computer's back-up system. E-mail is not a good form of communication with legal counsel when seeking legal advice or transmitting information concerning matters in litigation. Inadvertent disclosure or dissemination of the communication could waive the attorney-client privilege.

The same rules, which apply to record retention for other City of La Crescent documents, apply to e-mail. As a rule, e-mail is a public record whenever a paper message with the same content would be a public record.

The Internet and e-mail are to be accessed for business purpose only, during working hours. Employees may use the City's Internet access to reach sites of personal interest during lunch breaks, rest breaks, before work hours, or after work hours. Employees may receive personal e-mail communications during work hours, but shall not respond to those communications during work-hours, except in the case of an emergency.

Only those employees or officials who are duly authorized to speak to the media, to analysts or in public gatherings on behalf of the city may speak/write in the name of the City to any news group or chat room. Other employees may participate in news groups or chats in the course of business when relevant to their duties, but they do so as individuals speaking only for themselves.

The City provides Internet access to employees for work on City business. Employees may use this access for work-related matters in a professional manner.

Occasional personal use of the Internet and e-mail is acceptable within the bounds of all City policies. The following considerations apply to all uses of the Internet whether business related or personal:

1. There is no quality control on the Internet. All information found on the Internet should be considered suspect until confirmed by another source.
2. Internet use during work hours must be limited to subjects directly related to job duties.

3. Personal use of the Internet during non-work hours (breaks, lunch hour, before or after work) is permitted. However, employees may not at any time access inappropriate sites. Some examples of inappropriate sites include but are not limited to adult entertainment, sexually explicit material, or material advocating intolerance of other people, races or religions, or in manners that otherwise violate City policies related to respectful workplace and harassment prevention. This prohibition includes information on social media sites such as Facebook and MySpace, blogs and microblogs such as Twitter.
4. No software or files may be downloaded from the Internet unless approved in advance by the technology department or City Administrator. This includes but is not limited to free software or downloads, maps, weather information, toolbars, music or photofiles, clipart, screensavers and games.
5. Employees may not participate in any Internet chatroom -- an online meeting place to discuss a particular topic, sometimes in semi-privacy -- unless the topic area is related to City business.
6. The City may monitor any employee's use of the Internet for any purpose without prior notice, as deemed appropriate by the City Administrator.
7. Employees may not post or publish images of victims, images of emergency scenes, the interior of private dwellings, pictures of our residents, or any other non-public information on any websites of personal use such as but not limited to Facebook, MySpace, Instagram and/or other social media.

PARTICIPATION IN ON-LINE FORUMS OR SOCIAL MEDIA

1. Employees should remember that any messages or information sent on City of La Crescent-provided facilities to one or more individuals via an electronic network (for example: Internet mailing lists, bulletin boards and on-line services) are statements identifiable and attributable to the City of La Crescent.
2. The City of La Crescent recognizes that participation in some forums might be important to the performance of an employee's job. For instance, an employee might find the answer to a technical problem by consulting members of a newsgroup devoted to the technical area.
3. Employees shall include the following disclaimer in all of their postings to public forums:

"The views, opinions and judgments expressed in this message are solely those of the author. The message contents have not been reviewed or approved by the City of La Crescent".

4. Employees should note that even with a disclaimer, a connection with the City of La Crescent exists and a statement could be imputed legally to the City of La Crescent. Therefore, employees should not rely on disclaimers as a way of insulating the City of La Crescent from the comments and opinions they contribute to forums. Instead, employees must limit their discussion to matters of fact and avoid expressing opinions while using the City of La Crescent's systems or provided account.
5. Employees must receive authorization from their department head prior to participating in an online forum.

THE FOLLOWING SHALL APPLY TO ALL MEANS OF COMMUNICATION;

Access Rules: Employees shall only use software that is supplied by the City, including but not limited to, web browser and e-mail applications. Employees shall not install hardware or software on the City's system without the express permission of Information Management Specialists or City of La Crescent personnel so designated. Employees shall not access, intercept, record, read, modify, or delete the files belonging to others. Employees shall only use the user names provided by the City. Employees may not subscribe to receive e-mail from news groups or list services without the permission of Information Management Services or the City of La Crescent personnel so designated.

Individual workstations are configured to operate in a complex, networked environment. Users shall not change their system's setup files. Users who believe their setup files are not configured correctly should contact Information Management System for assistance.

Security: Every employee must maintain the security of the City of La Crescent's communication systems. Employees shall not divulge passwords or security protocols to anyone outside of the City of La Crescent. Employees shall not permit unauthorized users to use their password(s) or the City of La Crescent's Internet or e-mail access.

UNACCEPTABLE USE OF THE CITY OF LA CRESCENT'S COMMUNICATION SYSTEMS:

At no time, during work hours or non-work hours, shall an employee use any of the City of La Crescent's communications system for any of the following purposes:

1. To access, transmit, upload, download, receive or distribute pornographic, obscene, abusive, or sexually explicit materials or materials containing unclothed or partially clothed people.
2. To transmit or receive obscene, abusive or sexually explicit language or profanity.
3. To violate any local, state or federal law or engage in any type of illegal activities.

4. To vandalize, damage or disable the property of another person or organization.
5. To access the materials, information, files or e-mail of another person or organization without permission or without a legitimate business reason.
6. To violate any applicable state, federal, or international copyright, trademark, or intellectual property laws or regulations, or otherwise use another person or organization's property without prior approval or proper attribution consistent with copyright laws, including unauthorized downloading or exchanging of pirated or otherwise unlawful software, or copying software to or from any of the City of La Crescent's computer.
7. To engage in any form of gambling, wagering, betting, or selling.
8. To engage in any type of harassment or discrimination, including but not limited to; sexual harassment, harassment, or discrimination based upon race, gender, sexual orientation, religion, national origin, marital status, status with respect to public assistance, disability or any other type of harassment or discrimination prohibited by law and by the City of La Crescent policy.
9. To engage in any type of commercial enterprise unrelated to the specific purposes and needs of the City of La Crescent.
10. To engage in any form of solicitation for private purpose that is not related to the business purpose of the City of La Crescent.
11. To promote any political or private causes or other activities that are not related to the business purpose of the City of La Crescent.
12. To enter into financial or contractual obligations without the prior express consent of the City Administrator.
13. To advocate or access information advocating any type of unlawful violence, vandalism or illegal activity.
14. To download large files, requiring the City of La Crescent's storage capacity, from the Internet for personal use.
15. To connect personal social media account names or e-mail addresses to the City of La Crescent.
16. To disclose private or non-public information.

RECEIPT OF INAPPROPRIATE E-MAIL OR ACCESS OF INAPPROPRIATE INTERNET SITES:

If an inappropriate and unsolicited e-mail message is received, it should be immediately deleted unless the message includes reference to an illegal activity as noted above. Messages referring to illegal activities should be immediately reported to the employee's Department Head. If an employee inadvertently accesses an Internet site which is inappropriate or prohibited, the employee shall immediately escape from such site. Employees should be aware that every transaction on the Internet leaves a trail that can be easily traced and timed.

ENFORCEMENT:

Any employee who abuses the provisions of this policy will be subject to discipline, including discharge, for abuse of this policy and/or for any other related applicable policies, rules or state and federal laws. In addition, violations of the policy or misuse of the communication systems, which are of a criminal nature, may be referred for criminal prosecution.

DISCLAIMER/USER LIABILITY:

While the City of La Crescent has adopted and shall enforce this policy to the extent practicable, it does not have the resources or technical capability to ensure complete compliance by its users, who shall be individually responsible for adhering to the terms of this policy. The City of La Crescent shall not assume, and hereby expressly disclaims, liability for the misuse of its communication systems, computers, equipment or Internet access, which violates this policy or any law.

CITY OF LA CRESCENT COMMUNICATIONS POLICY

ACKNOWLEDGEMENT OF RECEIPT OF COMMUNICATION POLICY

I, _____, an employee of the City of La Crescent, acknowledge that I have received a copy of the City Communication Policy and understand that this receipt will be filed with my personnel records.

SIGNATURE

DATE

NAME (PRINT)

