

**HOPKINS CITY COUNCIL  
AGENDA  
Tuesday, January 3, 2023  
6:30 pm**

**THIS AGENDA IS SUBJECT TO CHANGE  
UNTIL THE START OF THE CITY COUNCIL MEETING**

**Schedule**      HRA Meeting, 6:30 p.m. – City Council Meeting immediately following meeting

**I. CALL TO ORDER**

**II. ADOPT AGENDA**

**III. PRESENTATIONS**

1. Appointments and Oath of Office for Park Board Members; Imihy Bean/Domeier
2. Minnesota GreenStep Program Recognition; Imihy Bean

**IV. CONSENT AGENDA**

1. Minutes of the December 20, 2022 Regular Meeting Proceedings
2. Appointment of Mayor Pro Tempore for 2023; Domeier
3. Designation of the Official Newspaper for 2023; Domeier
4. Designation of Official Depositories for 2023; Bishop
5. Authorize Out-of-State Travel; Domeier
6. Approval of Tobacco License for Plymouth Express One dba Hopkins Tobacco and Vape; Domeier
7. Approval of 2023 Insurance MOU with LELS #143; Lenz
8. Second Reading: Ordinance Amending the Hopkins City Code Related to Reasonable Accommodations and Reasonable Accommodation Fees for 2023; Imihy Bean

**V. PUBLIC HEARINGS**

**VI. OLD BUSINESS**

1. Resolution Upholding The Accommodation Specialist's Denial Of The Request For Reasonable Accommodation For 101 Oakwood Road; Riggs

**VII. NEW BUSINESS**

**VIII. PUBLIC COMMENT**

**IX. ANNOUNCEMENTS**

- Next City Council Regular Meetings: Tuesday, January 10 and 17 at 6:30 p.m.

**X. ADJOURN**



CITY OF HOPKINS

Administration

## City Council Report 2023-006

To: Honorable Mayor and Council Members  
Mike Mornson, City Manager

From: PeggySue Imihy Bean, Management Analyst

Date: January 3, 2023

Subject: Appointments and Oath of Office for Park Board Members

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### RECOMMENDED ACTION

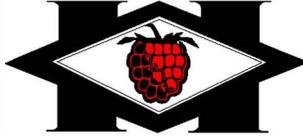
**MOTION TO** appoint Rachael Dachenbach and Jon Lyksett to the Park Board with terms ending June 30, 2024 and Carsyn Johnson as a Park Board Youth Member through June 30, 2023.

### OVERVIEW

Due to vacancies on the Park Board, staff is recommending appointment of three Hopkins residents to complete the terms. Once the appointments are official, City Clerk Domeier will issue the Oaths of Office.

### SUPPORTING INFORMATION

- N/A



Administration

**CITY OF HOPKINS**

## **Memorandum**

To: Honorable Mayor and Council Members  
Mike Mornson, City Manager

From: PeggySue Imihy Bean, AICP, Management Analyst  
Diana McKeown, Metro CERT Director – Great Plains Institute

Date: January 3, 2023

Subject: Minnesota GreenStep Program Recognition

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### **PURPOSE**

To present the City of Hopkins with the Step 4 Minnesota GreenStep program recognition.

### **INFORMATION**

In Spring of 2023, the City of Hopkins received an award for being a Step 4 city in the Minnesota GreenStep program. Hopkins is one of 147 participating cities and tribal nations in the 12-year-old challenge, assistance, and recognition program. The City achieved Step 3 in 2013, and this new step establishes baseline metrics for the City to use to continue advancing sustainability within the organization. Tonight, Diana McKeown, the Metro CERT Director for the Great Plains Institute, will present the award to the City.

The City has worked hard to implement best practice actions in order to meet sustainability goals with support from the GreenStep program and the City's peers. Actions taken within the program focus on cost savings, energy use reduction, resource conservation, climate change, and the encouragement of civic innovation. You can learn more about the City's efforts at <https://greenstep.pca.state.mn.us/city-detail/12135>.

Minnesota GreenStep is a voluntary challenge, assistance, and recognition program to help cities and tribal nations achieve their sustainability and quality-of-life goals. This free continuous improvement program is based upon 29 best practices that are tailored to Minnesota cities and tribal nations. More at [www.MnGreenStep.org](http://www.MnGreenStep.org).

**HOPKINS CITY COUNCIL  
REGULAR MEETING PROCEEDINGS  
DECEMBER 20, 2022**

**CALL TO ORDER**

Pursuant to due call and notice thereof a regular meeting of the Hopkins City Council was held on Tuesday, December 20, 2022 at 6:32 p.m. in the Council Chambers at City Hall, 1010 1<sup>st</sup> Street South.

Mayor Hanlon called the meeting to order with Council Members Balan, Garrido and Hunke attending. Council Member Beck was absent. Others attending included City Manager Mornson, Assistant City Manager Lenz, City Clerk Domeier, Management Analyst Imihy Bean, Director of Public Works Stanley, Director of Planning and Development Elverum, Housing Director Mohammed, Community Development Coordinator Youngquist, Interim Director of Public Works Autio and City Attorney Sathe.

**ADOPT AGENDA**

**Motion** by Balan. **Second** by Hunke.

**Motion** to Adopt the Agenda.

**Ayes: Balan, Garrido, Hanlon, Hunke**  
**Nays: None. Absent Beck. Motion carried.**

**PRESENTATIONS**

**III.1. Recognition of Public Works Director Stanley; Mornson**

The City Council and City Manager Mornson recognized Nate Stanley for over eight years of dedicated service to the City of Hopkins. Mr. Stanley served as City Engineer and Public Works Director and was well respected by Council, staff and the community.

**III.2. Concept Plan Review – Knollwood Towers North; Krzos**

City Planner Krzos shared information about a concept plan review for the Knollwood Towers North development. The subject property is located at the southwest corner of Blake Road and Lake Street. The concept plans call for a seven-story, 139-unit building to be constructed in the location of two existing structured parking buildings. The proposal also includes construction of a new shared parking structure at the rear of the site and interior modifications to both the existing East and West Towers buildings. The site is currently guided Activity Center by the 2040 Comprehensive Plan and zoned RX-TOD, Residential-Office Mix Transit-Oriented District (TOD) Center.

Ben Delwiche with Kaas Wilson Architects, on behalf of Hopkins Apartments LLC the property owner, provided more information about the project. Council Member Balan questioned the affordable housing component. Mr. Delwiche suggested that 10-years of affordable housing is reasonable but open to negotiations. He also asked for more information about the upgrades and corrections to maintenance issues. Sharon Hernandez from IPG talked more on the maintenance, security, parking and other ongoing issues. Council Member Hunke appreciated that IPG is acknowledging some of the issues raised during the Planning Commission meeting. He also appreciated the opportunities proposed for the northeast view and suggested adding walkout units. Mayor Hanlon asked for more clarification on affordable housing. He also talked about hitting the energy performance standards with the upgrades.

**CONSENT AGENDA**

**Motion** by Balan. **Second** by Garrido.

**Motion** to Approve the Consent Agenda.

1. Minutes of the December 6, 2022 Special Meeting Proceedings
2. Minutes of the December 6, 2022 Regular Meeting Proceedings
3. Approval of 2023 Union Contract with Local 49; Lenz
4. Approval of 2023 Insurance MOU with LELS #171; Lenz

**Ayes: Balan, Garrido, Hanlon, Hunke**

**Nays: None. Absent Beck. Motion carried.**

**PUBLIC HEARINGS**

**V.1. Amendment to TIF Spending Plan; Elverum**

Director of Planning and Development Elverum summarized Council Report 2022-116. Since approval in 2021, the City and HRA have approved \$1,250,000 in funding for Enclave's redevelopment proposed at 1106 Mainstreet consisting of multifamily housing, commercial space and underground parking. Because this project was not originally listed in the Plan, it was determined the Plan should be modified to include it, add language to allow any future projects not yet identified if funding is still available and hold a new public hearing at the City Council.

Mayor Hanlon opened the Public Hearing at 7:22 p.m.

**Motion** by Hanlon. **Second** by Balan.

**Motion** to Close the Public Hearing.

**Ayes: Balan, Garrido, Hanlon, Hunke**

**Nays: None. Absent Beck. Motion carried.**

**Motion** by Hunke. **Second** by Balan.

**Motion** to Approve the Amended TIF Spending Plan.

**Ayes: Balan, Garrido, Hanlon, Hunke**

**Nays: None. Absent Beck. Motion carried.**

**NEW BUSINESS**

**VII.1. Resolution Approving an On-Sale Intoxicating Liquor License with Sunday Sales for Cocina Nova LLC DBA K'Kinaco; Domeier**

City Clerk Domeier summarized Council Report 2022-117. Cocina Nova LLC submitted an application for an on-sale intoxicating liquor license with Sunday sales at K'Kinaco, a new restaurant to be located at 922 Mainstreet (formerly Samba). The licensed premise includes the interior space area at 922 Mainstreet. Owners plan to open K'Kinaco in January.

**HOPKINS CITY COUNCIL  
REGULAR MEETING PROCEEDINGS  
DECEMBER 20, 2022**

Owners provided that the restaurant that will serve authentic Nikkei food and traditional Pisco drinks. The restaurant will be the first of its type in Minnesota.

**Motion** by Hunke. **Second** by Garrido.

**Motion** to adopt Resolution 2022-083 Approving an On-Sale Intoxicating Liquor License with Sunday Sales for Cocina Nova LLC DBA K'Kinaco.

**Ayes: Balan, Garrido, Hanlon, Hunke**  
**Nays: None. Absent Beck. Motion carried.**

**VII.2. First Reading: Ordinance Amending the Hopkins City Code Related to Reasonable Accommodations and Reasonable Accommodation Fees for 2023; Imihy Bean**

Management Analyst Imihy Bean summarized Council Report 2022-118. In October 2021, the City Council adopted a procedure to comply with the Federal Fair Housing Act. The City is expected to provide reasonable accommodations to persons with a disability, as defined by Federal law, regarding the application of zoning and other city regulations in regard to providing fair housing. Since adopting the ordinance, Staff has had two requests through this process which have informed the decision to make changes to the ordinance.

City Attorney Sathé shared that the requirements will offer better information on ownership similar to other City licensing processes.

**Motion** by Balan. **Second** by Hunke.

**Motion** to approve for First Reading Ordinance 2022-1186, Amending the Hopkins City Code Related to Reasonable Accommodations and Reasonable Accommodation Fees for 2023.

**Ayes: Balan, Garrido, Hanlon, Hunke**  
**Nays: None. Absent Beck. Motion carried.**

**PUBLIC COMMENT**

Randy Ridenour shared his concerns about operational changes at the Hopkins Depot. He requested the opportunity to meet to discuss his questions provided in writing to the City Council.

**ANNOUNCEMENTS**

Mayor Hanlon provided the upcoming meeting schedule.

**HOPKINS CITY COUNCIL  
REGULAR MEETING PROCEEDINGS  
DECEMBER 20, 2022**

**ADJOURNMENT**

There being no further business to come before the City Council and upon a motion by Garrido, second by Balan, the meeting was unanimously adjourned at 7:50 p.m.

Respectfully Submitted,  
Amy Domeier, City Clerk

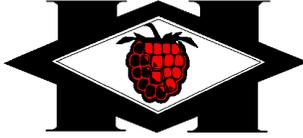
ATTEST:

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Patrick Hanlon, Mayor

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Amy Domeier, City Clerk



CITY OF HOPKINS

Administration

## City Council Report 2023-001

To: Honorable Mayor and Council Members  
Mike Mornson, City Manager

From: Amy Domeier, City Clerk

Date: January 3, 2023

Subject: Appointment of Mayor Pro Tempore for 2023

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### **RECOMMENDED ACTION**

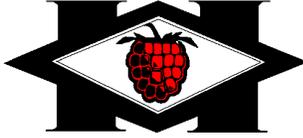
**MOTION TO** appoint Council Member Hunke as Mayor Pro Tempore for 2023.

### **OVERVIEW**

Minnesota State Statute section 412.121 and Hopkins City Charter section 2.06 states that at the first meeting of each year the City Council shall choose a Mayor Pro Tempore. The Mayor Pro Tempore shall serve as the presiding officer and Acting Mayor of the Council in the absence of the Mayor. Traditionally the Council Member who has served the longest serves as Mayor Pro Tempore.

### **SUPPORTING INFORMATION**

- N/A



CITY OF HOPKINS

Administration

## City Council Report 2023-002

To: Honorable Mayor and Council Members  
Mike Mornson, City Manager

From: Amy Domeier, City Clerk

Date: January 3, 2023

Subject: Designation of the Official Newspaper for 2023

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### RECOMMENDED ACTION

**MOTION TO** designate the Hopkins/Minnetonka Sun-Sailor as the 2023 Official Newspaper for the City of Hopkins.

### OVERVIEW

MN Statute 331A.02 and City Charter section 12.01 require that the City Council designate the official newspaper for the year at the first regular Council Meeting. All required legal documents and notices for the City of Hopkins will be published in the official newspaper.

The City received a bid from the *Hopkins/Minnetonka Sun-Sailor* for the legal newspaper designation. Staff is proposing to keep *Hopkins/Minnetonka Sun-Sailor* as the official newspaper because it reaches a majority of our residents in print and the working relationship the City has with their staff and reporters.

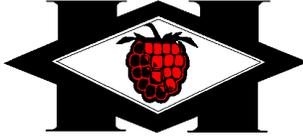
The following rate structure for legal notices would be effective January 1, 2023:

First insertion: \$11.90 per column inch  
Subsequent insertions: \$7.00 per column inch

All published legal notices will be posted on the *Sun-Sailor* website at no additional charge. This item is budgeted in all departments.

### SUPPORTING INFORMATION

- N/A



CITY OF HOPKINS

Finance Department

## City Council Report 2023-004

To: Honorable Mayor and Council Members  
Mike Mornson, City Manager

From: Nick Bishop, Finance Director

Date: January 3, 2023

Subject: Designation of Official Depositories for 2023

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### RECOMMENDED ACTION

**MOTION TO** approve Resolution 2023-002 Designating Official Depositories for City Funds in 2023.

### OVERVIEW

MN Statute 118A.02 requires that the City Council designate banks and financial institutions as official depositories for City Funds. This list give staff authority to deposit funds with these institutions only.

The City worked with Wells Fargo Bank, N.A., Wells Fargo Securities LLC, Pershing Wealth Solutions BNY Mellon and Ehlers Investment Partners LLC in 2022. The City would like to continue these relationships in 2023.

### SUPPORTING INFORMATION

- Resolution 2023-002

**CITY OF HOPKINS  
HENNEPIN COUNTY, MINNESOTA**

**RESOLUTION 2023-002**

**DESIGNATING OFFICIAL DEPOSITORIES  
FOR CITY FUNDS IN 2023**

**WHEREAS**, the City of Hopkins is required by law to designate depositories and financial institutions for City Funds; and

**NOW THEREFORE BE IT RESOLVED**, that the City Council of the City of Hopkins hereby designates Wells Fargo Bank , N.A. as an official depository for City Funds, both checking and savings; and

**BE IT FURTHER RESOLVED**, that the City Council of the City of Hopkins hereby designates as depositories and financial institutions for City funds, Wells Fargo Securities, LLC and Pershing Wealth Solutions BNY Mellon for all authorized and suitable investments covered under the City's Investment Policy, Legislative Policy 6-B.

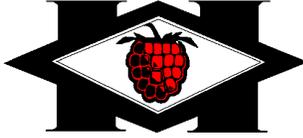
**BE IT FURTHER RESOLVED**, that the City Council of the City of Hopkins hereby designates Wells Fargo Securities LLC and Ehlers Investment Partners LLC as agent/brokers for all authorized and suitable investments covered under the City's Investment Policy, Legislative Policy 6-B.

Adopted by the City Council of the City of Hopkins this 3rd day of January, 2023.

By: \_\_\_\_\_  
Patrick Hanlon, Mayor

ATTEST:

\_\_\_\_\_  
Amy Domeier, City Clerk



CITY OF HOPKINS

Administration

## City Council Report 2023-003

To: Honorable Mayor and Council Members  
Mike Mornson, City Manager

From: Amy Domeier, City Clerk

Date: January 3, 2023

Subject: Authorize of Out-of-State Travel

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### RECOMMENDED ACTION

**MOTION TO** authorize attendance at the National League of Cities Conferences as required by the Travel Reimbursement Policy.

### OVERVIEW

In 2005, the Minnesota Legislature adopted a law, M.S. 471.661, requiring local units of government to adopt a policy that controls travel outside the state of Minnesota. The policy had to specify:

- (1) when travel outside the state is appropriate;
- (2) applicable expense limits; and
- (3) procedures for approval of the travel.

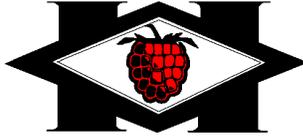
The City's Travel and Reimbursement Policy requires the City Council to approve, in advance, travel outside the state of Minnesota for elected officials. Travel can be authorized for the following reasons:

- The elected official will be receiving training on issues relevant to the city or to his or her role as the Mayor or as a council member;
- The elected official will be meeting and networking with other elected officials from around the country to exchange ideas on topics of relevance to the City or on the official roles of local elected officials.

The National League of Cities Conference provides opportunities for the City Council to accomplish both these objectives.

### SUPPORTING INFORMATION

- N/A



CITY OF HOPKINS

Administration

## City Council Report 2023-005

To: Honorable Mayor and Council Members  
Mike Mornson, City Manager

From: Amy Domeier, City Clerk

Date: January 3, 2023

Subject: Approval of Tobacco License for Plymouth Express One dba Hopkins  
Tobacco and Vape

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### RECOMMENDED ACTION

**MOTION TO** approve a Tobacco License for Plymouth Express One dba Hopkins Tobacco and Vape located at 415 17<sup>th</sup> Avenue North for the license term ending June 30, 2023.

### OVERVIEW

Plymouth Express One has applied for a tobacco license to sell tobacco and tobacco related products at 415 17<sup>th</sup> Avenue North. The license will be effective upon passage of the motion and expire on June 30, 2023. The application will be required to renew their license again for July 1, 2023 to continue operations.

The application is in order and may be approved by the City Council.

### SUPPORTING INFORMATION

- The complete application is on file in the City Clerk's office.



Administration

CITY OF HOPKINS

## City Council Report 2023-004

To: Honorable Mayor and Council Members  
Mike Mornson, City Manager

From: Ari Lenz, Assistant City Manager

Date: January 3, 2023

Subject: Approval of 2023 Insurance MOU with LELS #143

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### **RECOMMENDED ACTION**

**MOTION TO 2023 Insurance MOU with LELS#143.**

### **OVERVIEW**

The MOU will approve setting insurance rates with LELS #143 PSOs and is consistent with other settled unions. The cost of the contract is within the 2023 Budget and the past precedent for health insurance.

Alternatively, the Council could not approve the MOU which would require staff to renegotiate and likely lead to mediation or arbitration. This section is a summary of your item. Feel free to link to previous reports (such as planning commission reports) or webpages, City Code sections, etc. to provide a clear summary.

### **SUPPORTING INFORMATION**

- MOU with LELS#143

**Memorandum of Understanding**  
**Between the City of Hopkins and**  
**Law Enforcement Labor Services, INC. Local #143**  
**2023 Insurance Rates**

**WHEREAS**, City of Hopkins (hereinafter the “City”) and Law Enforcement Labor Services, INC. #143 (hereinafter the “Union”) are parties to a Collective Bargaining Agreement in effect from January 1, 2021 through December 31, 2023; and

**WHEREAS**, the contract included an opener for health insurance for 2023 in Article 15 Insurance; and

**WHEREAS**, the parties have come to an agreement regarding rate increases for 2023;

**NOW THEREFORE BE IT RESOLVED** that the parties mutually agree as follows:

Effective January 1, 2023 the EMPLOYER will contribute the following:

Single	\$1,117.49
Single +1/ +Children	\$1,835.26
Single +Children	\$1,819.13
Family	\$1,866.50

This Memorandum will remain in effect from January 1, 2023 through December 31, 2023.

FOR THE CITY OF HOPKINS;

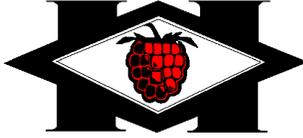
FOR L.E.L.S., Local #171

\_\_\_\_\_  
Patrick Hanlon, Mayor

\_\_\_\_\_  
Brian Bakeberg, Union

\_\_\_\_\_  
Mike Mornson, City Manager

\_\_\_\_\_  
Tim Jeanetta, Union



CITY OF HOPKINS

Administration

## City Council Report 2023-007

To: Honorable Mayor and Council Members  
Mike Mornson, City Manager

From: PeggySue Imihy Bean, Management Analyst

Date: January 3, 2023

Subject: Second Reading: Ordinance Amending the Hopkins City Code Related to Reasonable Accommodations and Reasonable Accommodation Fees for 2023

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### RECOMMENDED ACTION

**MOTION TO** adopt Ordinance 2022-1186 Amending Section 1-21 of the City of Hopkins City Code Related to Request for Reasonable Accommodation and Amending the Hopkins City Code Related to Reasonable Accommodations and Reasonable Accommodation Fees for 2023.

### OVERVIEW

No changes have been made to Ordinance 2022-1186 since the first reading on December 20, 2022. [The materials from the first reading are available here.](#)

### SUPPORTING INFORMATION

- Ordinance 2022-1186

**CITY OF HOPKINS  
HENNEPIN COUNTY, MINNESOTA**

**ORDINANCE NO. 2022-1186**

**AN ORDINANCE AMENDING SECTION 1-21 OF THE CITY OF HOPKINS CITY CODE RELATED TO REQUESTS FOR REASONABLE ACCOMMODATION AND AMENDING THE HOPKINS CITY CODE RELATED TO REASONABLE ACCOMMODATIONS AND REASONABLE ACCOMMODATION FEES FOR 2023.**

THE COUNCIL OF THE CITY OF HOPKINS HEREBY ORDAINS AS FOLLOWS:

**SECTION 1.** Section 1-21 of the Hopkins City Code is hereby amended to add the double-underlined language and delete the ~~stricken~~ language as follows:

**Sec. 1-21. Reasonable accommodation requests.**

(a) *Purpose.* It is the policy of the city, pursuant to the Federal Fair Housing Amendments Act of 1988 to provide reasonable accommodation in the application of zoning and other regulations for qualified persons with disabilities seeking fair and equal access to housing. Reasonable accommodation means providing a qualified person with flexibility in the application of land use, zoning and other regulations or policies (including the modification or waiver of certain requirements), when it is necessary to eliminate barriers to fair housing opportunities. The purpose of this article is to establish a process for making and acting upon requests for reasonable accommodation.

(b) *Definitions.*

Accommodation specialist: City staff appointed by the city manager or their designee to coordinate and administer the reasonable accommodation process outlined in Hopkins City Code section 1-21.

Qualified person: Any individual with a disability, their representative, or a developer or provider of housing for an individual with a disability.

Disability: Those disabilities which are recognized under applicable federal law.

Reasonable accommodation: Process by which the city may provide a qualified person flexibility in the application of land use, zoning, or other regulations.

(c) *Initiation of reasonable accommodation request.* Any qualified person who requests a reasonable accommodation in the form of modification in the application of a zoning or other regulation which may act as a barrier to fair housing opportunities due to the disability of existing or proposed residents, may do so on an application form provided by the city's accommodation specialist. The application shall include a detailed explanation of why the accommodation is reasonably necessary to make the specific housing available to the person(s), including information establishing that the applicant is disabled under applicable laws, as well as other information required by the accommodation specialist to make the determination. If the project

for which the request is being made also requires an additional land use review or approval, the applicant shall file the request concurrently with the land use review. Notice of such reasonable accommodation request shall be mailed within 15 days of receipt of a complete reasonable accommodation request application to each owner of affected property and property situated wholly or partly within 500 feet of the property to which the reasonable accommodation request relates. For the purpose of giving mailed notice, the accommodation specialist may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the accommodation specialist and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this notice requirement has been made. Any person providing comments regarding the reasonable accommodation request must provide such comments to the accommodation specialist within 14 days of the date of the notice.

If the qualified individual is a developer or provider of housing and is a business, including for profit and non-profit businesses, the application shall include additional disclosures as required by the reasonable accommodation specialist.

- (d) *Accommodation specialist: Required findings.* The accommodation specialist, in consultation with other appropriate city staff, shall have the authority to consider and act on requests for reasonable accommodation. The accommodation specialist shall issue a written decision in which the request is approved, approved subject to conditions, or denied. In making the decision as to whether an accommodation is reasonable, the following factors shall be considered:
- (1) Special need created by the disability;
  - (2) Potential benefit that can be accomplished by the requested accommodation;
  - (3) Need for the requested accommodation, including alternatives that may provide an equivalent level of benefit;
  - (4) Physical attributes of and any proposed changes to the subject property and structures;
  - (5) Potential impact on surrounding uses;
  - (6) Whether the requested accommodation would constitute a fundamental alteration of the zoning regulations, policies, or procedures of the city, and/or nature of the area in which the accommodation is being requested;
  - (7) Whether the requested accommodation would impose an undue financial or administrative burden on the city;
  - (8) Whether the requested accommodation is likely to have any negative impacts on the health, safety, or general welfare of members of the community, and
  - (9) Any other factor that may be determined to have a bearing on the request.

Any approval issued under this section may include such reasonable conditions that the accommodation specialist deems necessary to mitigate any adverse impacts that the granting of such reasonable accommodation may produce or amplify.

- (e) *Notice of decision.* The written decision of the accommodation specialist shall be mailed to the applicant ~~and any person providing comments pursuant to paragraph (c) of this section~~ within five business days of such decision being made. Any person providing comments pursuant to paragraph (c) will receive a notification via written or electronic means that a decision has been made and such notification shall include instructions on how to obtain a copy of the decision. All written decisions shall give notice of the right to appeal a decision of the accommodation specialist pursuant to section 1-21. The decision of the accommodation specialist shall constitute the final decision of the city, unless appealed according to the procedures and within the time limits provided in section 1-21. Only the aggrieved applicant of the written reasonable accommodation determination has a right to appeal the decision.

A reasonable accommodation approved under this section shall become effective on the first calendar day following expiration of the right to appeal.

- (f) *Applicability.* Any approved request shall constitute a limited license which shall allow the property owner or occupant to continue to rely upon such accommodation only so long as they own or occupy the property. Approval of a reasonable accommodation does not constitute a property right, does not run with the land, and does not provide future owners or occupants any rights to rely upon such accommodation approvals. Only the person who applied for such reasonable accommodation, and who is specifically named in the city's approval of such accommodation, shall be entitled to the benefits and protections thereof. The holder of an approved reasonable accommodation license hereunder shall, on or before January 1<sup>st</sup> of each year, provide the city with an updated affirmation that the reasonable accommodation is still necessary. In the event that the accommodations specialist has reasonable cause to believe that the factors supporting the original approval of a reasonable accommodation have changed, the accommodation specialist may request additional information from the license holder. Failure to annually reaffirm the need for the reasonable accommodation, or failure to provide information reasonably requested by the accommodation specialist shall result in automatic termination of the reasonable accommodation upon written notice by the accommodation specialist.
- (g) *Conditions and guarantees.* Prior to the issuance of any permits relative to an approved reasonable accommodation request, the accommodation specialist may require the applicant to record a covenant acknowledging and agreeing to comply with the terms and conditions established in the determination.
- (h) *Appeals.* Any decision reached by the accommodation specialist pursuant to section 1-21 shall be subject to appeal to the city council by those persons with a right to appeal as provided herein. All appeals shall be initiated by submitting a notice of appeal, in writing, to the accommodation specialist within 30 days of the

date upon which the decision was made. Upon notice of appeal, the city manager or their designee shall present such appeal to the city council for action within 30 days. The accommodation specialist shall also serve notice of such appeal on all parties entitled to receive notice of a decision issued under section 1-21 – notice to persons who made comments in accordance with paragraph (c) shall be provided notice of the appeal via written or electronic means, at the discretion of the accommodation specialist. Following a hearing on such appeal, the city council shall issue its findings, in writing, within 30 days.

(i) Fees for applications under this section 1-21 may be set by city council resolution.

(i) If the qualified individual is a business, whether for profit or a nonprofit, and the business is a developer or provider of housing that is not licensed by the State of Minnesota, the business will be required to pay the actual costs of review of the application and will be required to place \$3000, or an amount determined by the accommodation specialist based on the estimated costs for reviewing the application, into an escrow account which the city can draw down to cover the actual costs of review of the application. If the actual cost of reviewing the application exceeds \$3,000, then the City may charge the additional amount to the applicant. Payment of the additional amount will be a condition of granting the requested accommodation. This subsection is intended to conform to the City's practices in other development and housing contexts.

**SECTION 2.** Appendix A of the Hopkins City Code is hereby amended to add the double-underlined language and delete the stricken language as follows:

Reasonable Accommodations		
	<u>Base Fee</u>	<u>Escrow</u>
Reasonable accommodation request	\$500.00	<u>\$3000 or based on estimate</u>
Appeal to reasonable accommodation decision	\$300.00	

**SECTION 3.** The effective date of this ordinance shall be the date of publication.

First Reading: December 20, 2022  
 Second Reading: January 3, 2023  
 Date of Publication: January 5, 2023  
 Date Ordinance Takes Effect: January 5, 2023

By: \_\_\_\_\_  
 Patrick Hanlon, Mayor

ATTEST:

\_\_\_\_\_  
 Amy Domeier, City Clerk



CITY OF HOPKINS

Administration

## City Council Report 2023-007

To: Honorable Mayor and Council Members  
Mike Mornson, City Manager

From: PeggySue Imihy Bean, AICP, Management Analyst

Date: January 3, 2023

Subject: Resolution Upholding The Accommodation Specialist's Denial Of The Request For Reasonable Accommodation For 101 Oakwood Road

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### RECOMMENDED ACTION

**MOTION TO** approve Resolution 2023-001 Upholding the Accommodation Specialist's Denial of the Request for Reasonable Accommodation to the Definition of the Family Under the City Code for 101 Oakwood Road.

### OVERVIEW

On June 10, 2022, the applicant, Mr. Kevin Stanton submitted a request for a reasonable accommodation to allow for nine (9) occupants who are disabled due to alcoholism to live at 101 Oakwood Road. Mr. Stanton currently operates the home at this address as a sober living facility which is licensed by the City as a rental home for four (4) residents. After review of the application and public comments, Staff determined that the request was denied for the reasons outlined in detail in the letter of denial sent to the applicant on October 7, 2022. The applicant, Mr. Stanton, has requested an appeal of this decision on November 7, 2022, and the appeal was heard by the City Council on December 6, 2022. At that time, the City Council directed Staff and the City Attorney to develop a findings of fact for denial. [The application, comments, and all information related to this application can be found here.](#)

Tonight, Staff has prepared a resolution affirming the denial in this matter to be reviewed and approved by the City Council. Staff and the City Attorney will be available for any questions.

### SUPPORTING INFORMATION

- Resolution 2023-001 - Upholding the Accommodation Specialist's Denial of the Request for Reasonable Accommodation to the Definition of Family Under the City Code for 101 Oakwood Road

**CITY OF HOPKINS  
HENNEPIN COUNTY, MINNESOTA**

**RESOLUTION 2023-001**

**A RESOLUTION UPHOLDING THE ACCOMMODATION SPECIALIST’S DENIAL OF  
A REQUEST FOR AN ACCOMMODATION TO THE DEFINITION OF FAMILY UNDER  
THE CITY CODE FOR 101 OAKWOOD ROAD**

**WHEREAS**, the applicant, Kevin Stanton (the “Applicant”), submitted a written request for a reasonable accommodation for the property located at 101 Oakwood, Hopkins, MN (the “Property”) in accordance with City Code, section 1-21; and

**WHEREAS**, the requested accommodation is from City Code, Part III, Chapter 102, Article I., Sec. 102-4 – the definition of “family” – to allow nine unrelated individuals to occupy one dwelling unit and City Code, Article V, Section 102-160 and 102-161 – permitted uses per R Districts – to allow the operation of a sober home (the “Request”).

**WHEREAS**, the procedural history of the application is as follows:

1. On June 10, 2022, City staff received the reasonable accommodation Request from Kevin Stanton – the application originally included information regarding a variance request, which was later clarified and confirmed not to be a variance request but instead was part of the reasonable accommodation Request;
2. On July 22, 2022, City staff sent the Applicant a letter confirming that a decision would be made by October 8, 2022;
3. On October 7, 2022, the Accommodation Specialist issued her decision to deny the Request as provided in Exhibit 1 to this Resolution;
4. On November 7, 2022, the Applicant requested that the City Council hear an appeal of the Accommodation Specialists; and
5. On December 6, 2022, the Applicant presented his appeal to the City Council.

**WHEREAS**, the City Council, having heard the Applicant’s appeal and reviewed the record in the present matter, makes the following determination pursuant to City Code, section 1-21 (h).

**NOW, THEREFORE, BE IT RESOLVED** based on the information provided by the Applicant, the Accommodation Specialist’s decision, and the entire record of the present matter, the City Council hereby upholds the Accommodation Specialist’s denial of the requested accommodation – to allow the Applicant to operate a sober home consisting of up to nine unrelated persons residing together on the Property where the City Code allows for no more than four – based upon the following findings of facts:

1. Based upon the Applicant's Request, the proposed use – a sober home – would classify the Property as eligible for a reasonable accommodation under the Fair Housing Act ("FHA") and Americans with Disabilities Act ("ADA") (collectively, the "Act"). Specifically, houses which provide communal living to individuals with alcohol addiction have been found to be eligible for reasonable accommodations, as chemical dependency is generally a qualifying disability under the Act.
2. Pursuant to the Act, the Applicant bears the initial burden of establishing that their request is both reasonable and necessary to afford disabled persons an equal opportunity to housing. If the Applicant makes the requisite showing, the City may consider evidence that the requested accommodation would constitute a fundamental alteration to its policies, or in the zoning context the neighborhood, and/or whether the requested accommodation would constitute an undue financial or administrative burden on the City.
3. The Accommodation Specialist determined that the Request was not reasonable or necessary, and also provided for the determination that the request would result in a fundamental alteration to the City's policies, the proposed use would result in an inappropriate intensification of the current use of the Property, and that the requested accommodation would constitute an undue financial or administrative burden on the City.
4. The City Council specifically finds as follows:
  - a. The Applicant did not provide information establishing that the residents at the Property would meet the definition of being disabled or handicapped as defined in the Fair Housing Act ("FHA") and Americans with Disabilities Act ("ADA"). During the appeal process, the Applicant agreed to provide screening criteria for future residents, however, the Applicant also never addressed whether the fourth current resident meets the definition of being disabled and never actually provided any screening criteria.
  - b. The Applicant did not provide adequate information showing that without the accommodation that individuals who are disabled due to alcoholism will not have the opportunity to live in the housing of their choice. The property is currently being used as a sober home and denying the accommodation does not result in individuals who meet the definition of being disabled due to alcoholism being barred from the Interlachen Park neighborhood, any particular zoning district, or the City of Hopkins.
  - c. The Applicant did not provide sufficient information to show that if the accommodation is not granted, the business will not be financially viable. The Applicant provided a table of expenses and revenues which shows that rent charged is \$650 per resident, but provided no additional justification as to why \$650 is reasonable and why nine individuals are necessary to make

the Property financially viable. The Applicant also did not provide a justification as to why \$300 in reserves was reasonable. During the appeal, the Applicant provided that \$650 was the amount he believed was reasonable based on his experience operating sober homes, but did not provide any additional information. The Applicant did, inappropriately, request that the Accommodation Specialist opine on the reasonableness of the reserves included in the table of expenses – it is the Applicant's responsibility to show why the provided amount is necessary.

- d. The Applicant did not provide that the increase was therapeutically necessary. While increasing the number of individuals at a sober home is proposed as being beneficial, the information provided does not establish that increasing the number of individuals at the Property to nine is necessary or even essential to the therapeutic environment at the Property. Additionally, the anonymous letters purportedly from current residents state that the sober home is operating successfully with four residents.
- e. The Applicant has a history of attempting to skirt applicable regulations, including with the City of Hopkins. This includes when the Applicant purchased the Property in 2018 and subsequently began renting the Property to more than the allowed number of residents without an accommodation or rental license. Subsequently, the Applicant did obtain a rental license but refused to allow the City to inspect the Property, as is required as part of the rental license, and instead required the City to work with his attorney, which required the City Attorney's involvement, to schedule the inspection.
- f. Since the Applicant purchased the Property in 2018, there has been a 100% increase in the number of police calls to the Property when comparing the three years prior to the Applicant's purchase (2014-2017) to the three years since the purchase (2019-2022) – the City of Hopkins has seen a 7.62% decrease and the Interlachen Park Neighborhood has seen an 11.46% decrease in the number of police calls when comparing those same two periods.
- g. Granting the Request would result in a fundamental shift to the zoning practices of the City by intensifying the allowed use to more than double the number of individuals staying at the Property.
- h. The Property may not be appropriate for a sober home because of the current layout – the Property contains nine bedrooms, and it is not clear whether residents would be able to share bedrooms, which is a noted and important factor to recovery from alcoholism. Additionally, the Property has not been inspected to determine whether the proposed layout is appropriate for nine individuals to live based on applicable building code standards.

- i. The Applicant has provided that not more than five vehicles will be parked at the property at any given time, however the Applicant previously represented that current residents would not park on the street and numerous community comments noted that this promise was not adhered to. Additionally, the current layout of the Property is not suited to allow even up to five vehicles to enter and exit the Property without coordination with other drivers. This is concerning to the City because the next door neighbor provided that a resident of the Property drove over the neighbor's property causing damage to the neighbor's property, including to an inground sprinkler system. Increasing the number of residents and number of cars at the Property will not lessen the occurrence of parking issues.
- j. Granting the requested accommodation would require the City to establish a more rigorous and frequent inspection schedule, auditing the Applicant's compliance with the terms of the reasonable accommodation, and establishing new criteria for a single property to ensure the safety of residents and neighbors. These additional measures would be necessary given the intensification of the use and the Applicant's history of failing to adhere to established health and safety requirements and his evidenced history of lack of honesty. These necessary additional requirements would result in a departure from established City policies.
- k. The Applicant's history of a lack of honesty and documented lack of control is also concerning to the City, especially given that individuals in recovery are generally considered to be a vulnerable population.
- l. In response to the Accommodation Specialist's decision, specifically the inclusion of the Applicant's history of lack of honesty, lack of control in interactions with others, and inability to adhere to established health and safety requirements, the Applicant claimed the City displayed animus towards the Applicant. Ignoring the Applicant's past actions would be a dereliction of the City's responsibility to protect the general safety and welfare of all community members of the City of Hopkins. Including these factors as part of determining whether the request for a reasonable accommodation is prudent and does not evidence animus towards the Applicant. If the Applicant's argument were to be correct, the City could not consider that the Applicant admitted to purchasing alcohol for a participant in another sober home, which would be an absurd result.
- m. The Applicant's actions during the proceeding, including calling and screaming at the Accommodation Specialist to change the applicant from "Kevin Stanton" to "ninety n ninety LLC" and stating that he would "fire Kevin Stanton" and apply using the LLC or a different name in an attempt to not address his past behavior is concerning to the City and does not support that granting the requested accommodation would be in the best interest of public safety and welfare.

5. Based on the foregoing, the City Council has determined that the requested accommodation is neither reasonable nor necessary and is therefore denied. Further, the City Council finds that if the accommodation request were reasonable and necessary, the evidence supports a finding that the accommodation, if granted, would constitute a fundamental alteration of the neighborhood and would further create an undue administrative and financial burden for the City, and therefore must be denied.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** by the City Council of the City of Hopkins that all recitals set forth in this Resolution are incorporated into and made part of this Resolution, and more specifically, constitute the express findings of the City Council and denial of the Applicant's appeal.

Adopted by the City Council of the City of Hopkins this 3rd day of January, 2023.

By: \_\_\_\_\_  
Patrick Hanlon, Mayor

ATTEST:

\_\_\_\_\_  
Amy Domeier, City Clerk