



AGENDA

City Council Workshop

The City Council workshop will be held via Zoom. Zoom is an online platform that allows persons to “attend” the meeting via video or telephone.

View Workshop at: <https://zoom.us/j/94017732722?pwd=akNFZXRKbml5RWd5bHJNdU1VaFBadz09> from a PC, Mac, tablet, iPhone, or Android device.

Or listen to the discussion by phone by calling 1-312-626-6799 and entering Meeting ID: 940 1773 2722, and Passcode: 740782, when prompted.

While the workshop is available for public viewing, public comment will not be taken during the meeting.

Workshop May 11, 2021 Council Chambers

- | | |
|---------|---|
| 5:00 PM | Outdoor Patios |
| 5:30 PM | Proposed Policies: <ul style="list-style-type: none">▪ Donations to Parks; Memorials in Parks; Installation, and Maintenance▪ Surplus: Donating, Transferring, Selling |
| 6:00 PM | MnDOT Intent to Close 10 th Street Access |
| 6:30 PM | Council Topics |
| 6:50 PM | Adjourn for Regular Meeting |



COUNCIL MEMORANDUM

To:	Honorable Mayor and City Council
From:	Mary Cutrufello, Associate Planner
Date:	May 11, 2021
Subject:	Temporary Outdoor Patio License

BACKGROUND

In response to the COVID-19 pandemic of 2020 and to support Oakdale businesses, the City Council allowed “a set of temporary modifications to existing ordinances that would allow the use of parking lots and sidewalks as areas to serve restaurant customers.” (Council Memorandum, 5/26/20.) These were in line with developments all over the country, as the need for social distancing eliminated indoor dining capacity and posed a significant threat to the viability of this portion of the service industry. Over the course of that summer, it became clear that seasonal outdoor dining could be a boon to restaurant and tavern businesses as well as a safe and pleasant experience for customers even after COVID-19 restrictions were lifted.

The ordinance modifications included creating a Temporary Outdoor Patio Permit, modeled on the Garden Center/Tent Sale License that has been available for many years. Staff has received inquiries about allowing a temporary outdoor patio option again in 2021.

RECOMMENDATION

In order to continue to support Oakdale businesses, staff recommends adoption of an ordinance amendment that would establish a Temporary Outdoor Patio License that businesses could apply for annually. The license would ensure that the location of the outdoor seating is safe and functional and compatible with surrounding areas.

COUNCIL QUESTION

Is the City Council supportive of establishing an annual license for Temporary Outdoor Patios?

ATTACHMENTS

Attachment A: Draft Ordinance

CITY OF OAKDALE
ORDINANCE 2021-XX

AN ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE CITY OF OAKDALE, CHAPTER 9 –
LICENSES AND BUSINESS REGULATIONS

The City Council of the City of Oakdale ordains:

Section 1. The Oakdale Code of Ordinances, Chapter 9, is amended to add the following:

Article XVI Temporary Outdoor Patios

Sec. 9-150. Definitions. The following words and terms, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise:

- **Temporary Outdoor Patio** – An enclosed or otherwise demarcated outdoor area, operated by a restaurant or tavern for seasonal outdoor service, located on an existing sidewalk or parking area.

Sec. 9-151. License Required. No person shall directly or indirectly operate a temporary outdoor patio in the city without first obtaining a license.

Sec. 9-152. Application for; Issuance of License. Application for a license required by this article shall be made to the Community Development Director on a form supplied by the city, a minimum of thirty (30) days prior to the desired start date. The application shall state the full name and address of the applicant, the location to be used by the applicant under the license, impacts on parking, if any, and such other information as shall be required by the applicant form. The completed application shall be reviewed by the City Council, and if approved, a license shall be issued by the City Clerk.

Sec. 9-153. Noise Impact Statement. A Noise Impact Statement must be provided with the Application if there are plans for audio speakers, live music, etc. Businesses whose buildings are within 100 feet of any residential district may not have any amplified sound on the patio. Other businesses must comply with noise ordinances in Chapter 19 of the City Code. A business applying for a Special Event permit for a short-term event with live music must have its Noise Impact Statement approved by the City Council.

Sec. 9-154. License Fee; Term. The fee for a license required by this article shall be determined by the City Council. Licenses issued pursuant to this article shall not be transferable from one person to another.

Sec. 9-155. License to be Displayed. Every license required by this article shall be kept conspicuously posted at the location for which the license is issued and shall be exhibited to any person upon request.

Sec. 9-156. License Revocation. Every license required by this article may be revoked by the City Council for a violation of any provision of this article, if the licensee has been given a reasonable notice and an opportunity to be heard.

Section 2. This Ordinance shall take effect and be in full force from and after its adoption and publication, as provided by law.

Paul Reinke, Mayor

AYES:

NAYS:

Adopted this 25th day of May, 2021 by the Oakdale City Council.

Attest:

Susan Barry, City Clerk

Published:

Text with ~~strikeout~~ is proposed for deletion
Text with underline is proposed for insertion.



COUNCIL MEMORANDUM

To:	Honorable Mayor and City Council
From:	Christina M. Volkers, City Administrator
Date:	May 11, 2021
Subject:	Proposed Policy: Donations to Parks; Memorials in Parks; Installation, and Maintenance

Per the direction of the City Council, staff drafted a policy relating to donations made to city parks from the public and memorials purchased by members of the public to be placed into parks. Draft policies were reviewed by the City Council on February 23 and April 13 and by the Parks and Recreation Commission on March 16.

The current version is restructured to provide a distinction between donations and memorials, to provide language speaking to the creation of donation and memorial directories for parks, to more clearly reference adherence to master plans, offers wording for memorial benches, and also to remove the “gifts to the city” language, as was discussed.

If the City Council is supportive of the attached draft policy, staff will bring back a request for formal approval to the May 25 regular meeting; the policy will be listed as a consent item.

Standard Operating Policy City of Oakdale

Policy Number:	MIS-019
Pages:	4
Subject:	Donations to Parks; Memorials in Parks; Installation, and Maintenance
Approved:	2021

1.0 General

- 1.1 The purpose of this policy is to establish standards and procedures for the installation, care, and maintenance for Donations made to city parks and for Memorials purchased by members of the public to be placed in parks. This policy does not apply to the Donation of buildings or land to the city.
- 1.2 The city desires to encourage Donations to its parks while at the same time manage aesthetic impacts and mitigate ongoing maintenance costs.
- 1.3 The city desires to provide members of the community the opportunity to remember or honor a loved one by purchasing a Memorial to be placed in a city park.
- 1.4 The city and the community share an interest in ensuring the best appearance and aesthetic quality of its parks. Park donations and park memorials should be in keeping with applicable master plans for the respective parks.
- 1.5 The city and the community share an interest in ensuring that all Donations and Memorials remain in good repair and that short- and long-term maintenance costs remain reasonable and do not create an undue or unknown burden to city parks staff.
- 1.6 The city reserves the right to decline any Donations or Memorial if, upon review by the City Administrator, acceptance of the Donation or Memorial is determined to be not in the best interest of the city.
- 1.7 This policy will apply to all Donations and Memorial made after its approved date. Donations and Memorial made prior to the adoption of this policy shall be subject to applicable sections of this policy.

2.0 Definitions

“Donation” shall mean signage, kiosks, wayfinding, public art, equipment, or landscaping proposed and paid for by a member of the public or nonprofit organization.

“Memorial” shall mean benches, trees, rocks, or engraved paver selected and paid for by a member of the public.

3.0 Standards for Donations

- 3.1 Proposed donations for a park should conform to the master plan for the park. If no plan exists, or if a plan exists but does not identify the specific park element proposed to be donated, city staff may consider accepting the donation under these conditions:
 1. Proposed donation meets a true need of the park.
 2. Proposed donation does not interfere with the intended current or future use of the park.
 3. Proposed donation does not require the relocation of other equipment or infrastructure to accommodate the donation.
 4. Proposed donation is of high quality to ensure a long life, stand up to general use, and be resistant to the elements and acts of vandalism.

5. Proposed donations that will necessitate atypical maintenance, such as a perceived difficulty in obtaining or recreating unique components or replacement parts, or significant staff time will not be approved.
- 3.2 All donation proposals must include true costs such as city staff time to prepare the site, city staff time to install the donation, materials, and associated permits.
- 3.3 The city has an interest in ensuring that the donor covers the full cost for the purchase and installation, where applicable, of their donation. The city also has an interest in ensuring that on-going maintenance costs do not negatively impact the resources available.
- 3.4 The donation shall be the sole property of the City of Oakdale; the donor shall have no legal interest in the donation. The city may relocate the donation for any reason, including for safety, maintenance, or redevelopment of park land. The city will make a reasonable effort to notify donors of any significant change to the amenity; however, it is the donor's responsibility to keep their contact information current with the city.

4.0 Review and Approval Process for Park Donations

- 4.1 The Parks Superintendent shall manage and process all donations proposed for city parks. The Parks Superintendent shall pre-determine and maintain a detailed directory of:
 1. The parks in the city that allow donations,
 2. The types of donation(s) allowed,
 3. The total number of each type of donation allowed in each park,
 4. The specific location of donation(s) allowed in each park, and
 5. Where donations have been placed, and type thereof.

The initial directory shall be approved by the Parks and Recreation Commission.

- 4.2 The donor shall present a plan to the Parks Superintendent detailing the purpose of the donation as well as the proposed design, required materials, location, maintenance plan, and anticipated lifecycle of the donation. Details shall also be provided if the donor plans to enlist the aid of volunteers for the installation of the donation.
- 4.3 The Parks Superintendent shall determine whether typical maintenance costs for the anticipated lifecycle would fall below or above \$1,000. Typical maintenance costs are described as those that can be achieved by Parks Division staff with equipment and tools in the possession of the Public Works Department.
- 4.4 When typical maintenance costs will likely be at or below \$1,000 for the anticipated lifecycle of the donation, the Parks Superintendent shall provide a written recommendation to the Public Works Director/City Engineer on whether or not to accept the proposed donation as follows:
 1. A recommendation for approving donation requests should detail the item(s) being donated, proposed location(s), anticipated lifecycle of the donation, and associated maintenance costs.
 2. A recommendation for denying donations requests should detail all reason(s) for the denial.

The Public Works Director/City Engineer shall review the recommendation and present it to the City Administrator for review/approval.

- 4.5 When typical maintenance costs will likely be above \$1,000 for the anticipated lifecycle of the donation, the Parks Superintendent shall provide a written recommendation to the Public Works Director/City Engineer on whether or not to accept the donation as follows:

1. A recommendation for approving donation requests should detail the item(s) being donated, proposed location(s), anticipated lifecycle of the donation, and associated maintenance costs.
2. A recommendation for denying donations requests should detail all reason(s) for the denial.

The Public Works Director/City Engineer shall review the recommendation and present it to the City Administrator. The City Administrator shall review the recommendation and present it to the City Council for review/approval.

5.0 Review and Approval Process for Park Memorials

- 5.1 The Parks Superintendent shall manage and process all memorials for city parks with the following exception: the City Clerk shall manage and process all paver orders for the Oakdale Veterans Memorial; paver installation shall be provided by the Parks Division.
- 5.2 The Parks Superintendent shall identify the cost for each type of memorial offered by the city that includes, if appropriate, cost to the city to acquire the memorial, engraving, concrete pad, planting, installation, and maintenance, for inclusion on the city's fee schedule. At such times that cost adjustments for memorials are warranted, the Parks Superintendent shall submit such a request to the Finance Director prior to adoption of the city's fee schedule for the next year.
- 5.3 The Parks Superintendent shall pre-determine and maintain a detailed directory of:
 1. The parks in the city that allow memorials,
 2. The types of memorial(s) allowed,
 3. The total number of each type of memorial allowed in each park,
 4. The specific location of memorial(s) allowed in each park, and
 5. Where memorial have been placed, and type thereof.

The initial directory shall be approved by the Parks and Recreation Commission.

- 5.3 The following memorials shall be offered by the city.
 - Bench (Engraved)
 - Tree (Species as approved by the City Forester)
 - Rocks (Engraved or with engraved plaques)
 - Engraved Paver at the Oakdale Veterans Memorial
- 5.4 The price for memorials shall be part of the city's fee schedule and shall include:
 - Bench: From those offered by the city to include engraving, concrete pad, installation, and maintenance.
 - Tree: From species approved by the City Forester, planting, maintenance.
 - Rocks: Engraved or with Engraved Plaque: Rock, engraving, installation, and maintenance.
 - Engraved Paver at the Oakdale Veterans Memorial: Paver, engraving, installation, and maintenance.
- 5.5 Memorials shall be the sole property of the City of Oakdale; the purchaser shall have no legal interest in the memorial. The city may relocate the memorial for any reason, including for safety, maintenance, or redevelopment of park land. The city will make a reasonable effort to notify the purchaser of any significant changes; however, it is the purchaser's responsibility to keep their contact information current with the city.
- 5.6 Wording on a memorial bench shall be subject to the approval of the Parks Superintendent, should be as brief as possible, and be limited to phrases such as: "In Loving Memory of", "Dedicated to", or "In Honor of".

5.7 Decoration or adornment of memorials can interfere with routine maintenance and the appearance of the memorial. As such, decorations and adornments will be allowed to remain in place until such time as removed by the Parks Division.

6.0 Donations for Multi-Year Projects or Community Memorials

6.1 When an entity offers to donate to the city a partial monetary donation over a pre-determined and agreed upon number of years to realize the completion of a specific project, excluding buildings, and the review and approval process is followed as documented above. If approved, the City and the entity shall enter into a written agreement that includes (not all-inclusive):

- a. Amount of donation the entity will pay to the city each year.
- b. Entity to donate project to the city at completion of project.
- c. Entity to release any claims of ownership at completion of project.
- d. Steps to be taken if donation isn't received as anticipated (such as cancellation of project).

6.2 At such times that the city plans to create a memorial in the community and invite members of the public to make monetary donations to the city toward said memorial, such donations will be returned to each donor in the event that a determination is made that the memorial project will not proceed.

7.0 Ongoing Maintenance of Donations and Memorials

7.1 The Parks Superintendent shall manage the maintenance of all approved and authorized donations and memorials placed in city parks by regular and seasonal parks staff.

8.0 Removal of Donations or Memorials

8.1 Items that are living, such as landscaping, flower beds, and trees, become city property upon planting. If a tree or landscaping becomes overgrown, unkempt, diseased or dies, the Parks Superintendent will call for its removal.

8.2 Items such as signage, kiosks, wayfinding, public art, equipment, and benches become city property upon installation. If an item becomes unserviceable or no longer meets a public need at its location, the Parks Superintendent will call for its removal.



COUNCIL MEMORANDUM

To:	Honorable Mayor and City Council
From:	Christina Volkers, City Administrator
Date:	May 11 2021
Subject:	Proposed New Policy: MIS-020: Surplus: Donating, Transferring, Selling

From time to time, staff identifies the need for new policies to be established. Policy MIS-020: Surplus: Donating, Transferring, Selling is such a policy.

Donating: Minnesota Statutes §471.3459 authorizes cities to adopt a policy that provides for donating certain surplus equipment to nonprofit organizations. “Surplus Equipment” is defined as that used by public works departments and cellphones and emergency medical and firefighting equipment no longer needed and that does not meet industry standards or has minimal or no resale value. An example would be the Fire Department donating a “Jaws of Life” to the Century College Foundation.

Transferring: Minnesota Statutes §471.85 allows cities to transfer property to another Public Corporation for a nominal or zero fee. An example would be the city providing lobby chairs to another municipality.

Selling: Minnesota Statutes §15.054 allows cities to sell surplus by sealed bids or through an auction. Employees may purchase items being sold by bid or auction, but officials may not.

If the City Council is supportive of the attached policy, staff will bring back a request for formal approval to the May 25 regular meeting; the policy will be listed as a consent item.

**Standard Operating policy
City of Oakdale**

Policy Number: MIS-020
Pages: 5
Subject: Surplus: Donating, Transferring, Selling
Approved: 2021

1.0 Purpose

1.1 The purpose of this policy is to establish authority and procedures for donating, transferring, and selling the City's Surplus equipment and Surplus property.

2.0 Definitions

"City" means the City of Oakdale, Minnesota.

"City Council" means the governing body of the City.

"City Employee" means all full-time, part-time, seasonal, and temporary employees of the City of Oakdale, including interns.

"City Official" means elected or appointed to public office including city council and advisory bodies of the City of Oakdale.

"Donation" means to contribute, donate or give surplus, at no cost, to a Nonprofit Organization that serves a public purpose and benefits its community as a whole. Also means accepting any donation.

"Electronic Selling Process" means the process of selling through electronic media, particularly the internet.

"Eligible Organization" means a Nonprofit Organization serving one or more of the following functions: cultural, historical, educational, safety, social services, environmental, or economic.

"Fair Market Value" means the price at which surplus would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of all relevant facts.

"Nonprofit Organization" means an organization formed under Section 501(c)(3) of the Internal Revenue Code.

"Open Market" means an unrestricted market with free access by and competition of buyers and sellers.

"Public Corporation" means a corporation, owned and operated by a government, established for the administration of certain public programs or a municipal corporation.

"Records Retention Schedule" means the State of Minnesota Records Retention Schedule.

"Surplus" means equipment used by the City's public works department, and cellular phones and emergency medical and firefighting equipment no longer needed by the City because it does not meet industry standards for emergency medical services, police, or fire departments or has minimal or no resale value. It also means furnishings, vehicles, equipment, and materials. Does not

include buildings or land; the sale or disposal of buildings or land shall always require authorization by the City Council.

“Surplus Form” means the form attached as Exhibit 1 to this policy that must be filled out by a Nonprofit Organization requesting or receiving a Donation of Surplus from the City.

3.0 Scope

- 3.1 This policy applies to all City departments that generate Surplus and it governs the actions of all City Employees and City Officials. On occasion, City property becomes obsolete, is damaged, or is determined to be unnecessary. An orderly process is desired, and required, to relieve the City of unwanted items.
- 3.2 All Property owned by the City is, by definition, publicly-owned property. To best serve the interests of the public and to avoid the appearance of favored treatment, personal removal and assumption of City Surplus by City employees outside of this policy is prohibited.
- 3.3 Donating to a Nonprofit Organization shall be as outlined by Minnesota Statute §471.3459 and Section 4.0 of this policy.
- 3.4 Transferring to another Public Corporation shall be as outlined by Minnesota Statute §471.85 and Section 5.0 of this policy.
- 3.5 Selling shall be as outlined by Minnesota Statute § 15.054 and Section 6.0 of this policy.
- 3.6 The City has no obligation to make a Donation of Surplus. Surplus that is not donated may be sold, recycled, or discarded at the discretion of the City Administrator.
- 3.7 All Surplus must first be considered for transfer between City departments.
- 3.8 When equipment and/or real property obtained with funding from a Federal grant or award is no longer needed for the originally intended purpose, except as otherwise provided in Federal statutes, regulations, or awarding agency disposition instructions, the City must obtain disposition instructions from the Federal awarding agency or the pass-through entity.

4.0 Procedure for Donating Surplus to Nonprofit Organizations

- 4.1 Donating to a Nonprofit Organization shall be as outlined by Minnesota Statute §471.3459, attached.
- 4.2 The City shall identify Surplus and offer it for Donation in conformance with the following guidelines:
 - 1. Identify and Report Surplus. Department Heads are responsible for monitoring their equipment and property and shall identify and report all Surplus that could potentially be used by a Nonprofit Organization to the City Clerk on at least an annual basis.
 - 2. Determine the Fair Market Value of Surplus. The City Clerk shall work with the respective City staff to determine the Fair Market Value of the Surplus.
 - 3. City Administrator Declaration. The City Clerk will forward a list of the Surplus with each item’s Fair Market Value to the City Administrator who shall approve or deny the respective Surplus items as eligible for Donation as per 7.1 of this policy.
 - 4. Donation. The City Clerk shall be responsible for coordinating the Donation of the Surplus.

5. Advertisement. Surplus may be posted as eligible for Donation on the City's website. The City may also use other reasonable means to notify Eligible Organizations about the availability of Surplus, such as correspondence. If the City chooses to advertise, the City shall wait at least 30 days after posting the Surplus advertisement before commencing with any Donation(s).
6. Surplus Form. Eligible Organizations interested in Surplus shall fill out a Surplus Form, Exhibit 1, and submit the form to the City Clerk.
7. Prioritization of Donations. If more than one Eligible Organization requests a Donation for the same Surplus, the City shall consider factors it deems relevant including how the Surplus will be used, the benefit to the Eligible Organization, the impact on the City, how the Donation will accomplish goals of the City Council, and any previous Donation to the Eligible Organization.
8. Conflict of Interest. All City employees and City Officials are prohibited from taking possession of any Surplus personally or on behalf of an Eligible Organization.
10. As Is. A Donation of Surplus is made "as is" with no warranty, guarantee or representation of any kind, express or implied, as to the condition, utility, or usability of the Surplus offered. The Surplus may be defective and cannot be relied upon for safety purposes.
11. Title. The City Clerk shall cause any title or other ownership documents to be transferred to the Eligible Organization at the time of transfer. Any fees required to transfer the Surplus are the responsibility of the Eligible Organization.
12. Transportation. In the Surplus Form, the Eligible Organization must provide a detailed plan for transporting the Surplus from the City to the Eligible Organization. The Eligible Organization must pay all expenses associated with the transportation of the Surplus.
13. Documentation. The City Clerk shall document the Donation of all Surplus and shall keep such records in accordance with the City Records Retention Schedule.
- 14.

5.0 Procedure for Transferring Surplus to another Public Corporation

- 5.1 Transferring to another Public Corporation shall be as outlined by Minnesota Statute §471.85 attached.
- 5.2 The City shall identify all Surplus and may offer to transfer ownership of it to another Public Corporation in conformance with the following guidelines:
 1. Identify and Report Surplus. Department Heads are responsible for monitoring their equipment and property and shall identify and report all Surplus that could potentially be transferred to another Public Corporation to the City Clerk on at least an annual basis.
 2. Determine the Fair Market Value of Surplus. The City Clerk shall work with the respective City staff to determine the Fair Market Value of the Surplus.
 3. City Administrator Declaration. The City Clerk will forward a list of the Surplus with each item's Fair Market Value to the City Administrator who shall approve or deny the respective Surplus items as eligible for transfer as per 7.1 of this policy.
 4. Transfer. The City Clerk shall be responsible for coordinating the transfer of the Surplus.

5. Conflict of Interest. All City employees and City Officials are prohibited from taking possession of any Surplus personally or on behalf of another Public Corporation.
6. As Is. A transfer of Surplus is made “as is” with no warranty, guarantee or representation of any kind, express or implied, as to the condition, utility, or usability of the Surplus offered. The Surplus may be defective and cannot be relied upon for safety purposes.
7. Title. The City Clerk shall cause any title or other ownership documents to be transferred to another Public Corporation. Any fees required to transfer the Surplus are the responsibility of the respective Public Corporation.

6.0 Procedure for Selling Surplus

6.1 Selling shall be as outlined by Minnesota Statute §15.054 attached.

1. Identify and Report Surplus. Department Heads are responsible for monitoring their equipment and property and shall identify and report all excess, obsolete, or outgrown items that could be sold on the Open Market on at least an annual basis.
2. Determine the Fair Market Value of Surplus. The City Clerk shall work with the respective City staff to determine the Fair Market Value of the Surplus.
3. City Administrator Declaration. The City Clerk will forward a list of the Surplus with each item’s Fair Market Value to the City Administrator who shall approve or deny the respective Surplus items as eligible for sale on the Open Market as per 7.1 of this policy.
4. Sale. The City Clerk shall be responsible for coordinating the sale of the Surplus.
5. Exceptions. The City cannot generally sell to City Officers or City Employees; however, a limited exception allows the City to sell to a City Employee, but not to a City Officer, if the sale is made by sealed bids or through an auction and the City Employee is not involved in the process.

7.0 Approvals

- 7.1 For Surplus with a value less than \$10,000, department heads shall determine whether Surplus will be replaced, repaired, sold, auctioned, donated, recycled, or discarded within budget and financial parameters. Details on each disposition must be documented and provided to the City Clerk.
- 7.2 The City Administrator must approve the disposal of Surplus that has a value of greater than \$10,000 but less than \$175,000. If the Surplus is valued between \$25,000 and \$175,000, it must be sold either with a sealed bid process or by obtaining at least two quotes; if only one quote can be obtained, the City must document action taken to obtain a second quote. If the Surplus is valued at less than \$25,000, it may be sold on the open market without obtaining quotes or sealed bids.
- 7.3 The City Council must approve the sale or disposal of Surplus with a value greater than \$175,000. The City must use a competitive bidding process and sell to the highest bidder unless selling to the national government, the state, or any political subdivision of the state.

8.0 Review of Policy.

- 8.1 The City Administrator is responsible for maintaining and reviewing this policy. Any changes to this policy must be approved by the City Council.

**Exhibit 1
City of Oakdale
Surplus Form**

Organization Name: _____

Organization Address: _____

Organization Website: _____

(Attach proof of status as a nonprofit corporation under Section 501(c)(3) of the Internal Revenue Code.)

Organization Purpose: _____

Point of Contact: Name: _____

Address: _____

Email: _____

Phone: _____

Item(s) of Interest: _____

How will the requested surplus benefit your organization?

How do you plan to transport the surplus from the City to your location?

DISCLAIMER OF WARRANTIES. The City makes no agreement, warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for any particular purpose or use of the surplus by the recipient or any other user.

The recipient acknowledges the surplus may be defective and that it cannot be relied upon for safety purposes. The recipient has a duty to inspect the surplus before it is used for any purpose.

The recipient acknowledges that the City is not a manufacturer of the surplus or a dealer therein; that the surplus is being provided "as-is" and "with all faults," it being agreed and understood that all of the aforementioned risks are to be borne by the recipient or user of the surplus.

In no event shall the City be liable for any damages in connection with or arising out of the recipient's or any other person's or entity's use of the surplus.

I acknowledge that the Donation of any surplus to my organization is subject to the City's policy for Surplus: Donating, Transferring, Selling.

I have authority to request a Donation from the City and to bind my organization to the terms of this form.

Signature of Applicant _____ Date: _____

Declaration _____ Date: _____

City Administrator

471.3459 DONATION OF SURPLUS EQUIPMENT.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given them.

(b) "Local government" means a county, home rule or statutory city, town, or joint powers entity formed by any of these local governmental units.

(c) "Nonprofit organization" means an organization formed under section 501(c)(3) of the Internal Revenue Code.

(d) "Surplus equipment" means equipment used by a local government public works department, and cellular phones and emergency medical and firefighting equipment that is no longer needed by the local government because it does not meet industry standards for emergency medical services, police, or fire departments or has minimal or no resale value.

Subd. 2. **Donation.** A local government may donate surplus equipment to one or more nonprofit organizations. Before the local government makes any donations, it must adopt a policy on how it will determine what equipment is surplus eligible for donation and how it will determine which nonprofit organizations may receive donations. The policy must address the obligations of the local government to disclose to the nonprofit that the surplus equipment may be defective and cannot be relied upon for safety purposes.

History: 2016 c 87 s 2

471.85 PROPERTY TRANSFER; PUBLIC CORPORATIONS.

Any county, city, town, or school district may transfer its personal property for a nominal or without consideration to another public corporation for public use when duly authorized by its governing body.

History: *1951 c 176 s 1; 1973 c 123 art 5 s 7*

15.054 SALE OR PURCHASE OF STATE PROPERTY; PENALTY.

No officer or employee of the state or any of its political subdivisions shall sell or procure for sale or possess or control for sale to any other officer or employee of the state or subdivision, as appropriate, any property or materials owned by the state or subdivision except pursuant to conditions provided in this section. Property or materials owned by the state or a subdivision and not needed for public purposes, may be sold to an employee of the state or subdivision after reasonable public notice at a public auction or by sealed response, if the employee is not directly involved in the auction or process pertaining to the administration and collection of sealed responses. Requirements for reasonable public notice may be prescribed by other law or ordinance so long as at least one week's published notice is specified. An employee of the state or a political subdivision may purchase no more than one motor vehicle from the state at any one auction. A person violating the provisions of this section is guilty of a misdemeanor. This section shall not apply to the sale of property or materials acquired or produced by the state or subdivision for sale to the general public in the ordinary course of business. Nothing in this section shall prohibit an employee of the state or a political subdivision from selling or possessing for sale public property if the sale or possession for sale is in the ordinary course of business or normal course of the employee's duties.

History: *1977 c 347 s 5; 1986 c 444; 1998 c 386 art 1 s 1; 2004 c 262 art 1 s 1; 2005 c 156 art 2 s 11*



COUNCIL MEMORANDUM

To:	Honorable Mayor and City Council
From:	Christina M. Volkers, City Administrator
Date:	5/11/2021
Subject:	MNDOT Intent to Close 10 th Street Access

The City Council discussed MnDOT's intent to close the 10th street access in work sessions on March 23, 2021 and April 13, 2021. MnDOT staff Adam Josephson was in attendance, along with several Washington County staff and Washington County Commissioner Stan Karwoski for the discussion at work session on April 13, 2021.

Background

On April 5, 2021 MnDOT served us notification of termination of the 1993 Limited Use Permit (LUP) which would close the private entrance to the new HOM Furniture store, Oakdale KinderCare, and the new planned animal hospital off 10th Street.

On April 8, 2021 City Attorney Thomsen send a letter to MnDOT legal counsel on our behalf disputing the legality of MnDOT attempting to terminate the LUP. On April 13, 2021 MnDOT sent a response to City Attorney Thomsen disagreeing with our position on the matter. Subsequently at the April 13, 2021 work session further discussion occurred between all parties noted above.

As a result of the above, the attached letter was received on May 3, 2021. After consultation with the City Attorney, we do not believe MnDOT's proposed solution is in the best interest of the City of Oakdale and associated businesses.

It is proposed that a response be sent to MnDOT outlining [at least] the following:

- For the reasons set forth in our city attorney's April 8, 2021 letter to MnDOT legal counsel, the City's position is that MnDOT's purported termination of the 1993 LUP is ineffective.
- The City therefore disputes the statement in their May 3, 2021 letter that the 1993 LUP "is no longer valid."
- That being the case, the City does not agree that a new LUP needs to be drafted.
- Rather than seeking judicial intervention regarding whether MnDOT or the City is correct, the City suggests a different approach than the one set forth in their recent letter which can be argued solely benefits MnDOT.

The following are some thoughts we have on a possible way to move forward that might be acceptable to MnDOT without entering into a new LUP:

- MnDOT and the City agree to defer until a later date a potential judicial decision on whether the 1993 LUP is still valid
- MnDOT agrees that Washington County can proceed with the intersection project as-is
- Include as many of the terms in the last paragraph on the first page of MnDOT's letter that is agreeable to the City without agreeing to a new LUP
- The County's intersection improvements will remain in place for at least 3 years to have meaningful crash and operations data

- The intersection safety and operations will be re-evaluated following the 3-year data collection period.
- The County will perform the intersection evaluation, and the City will pay for it
- After the County completes the intersection evaluation, the County will come to a conclusion regarding whether there is a sufficient traffic safety concern to the point that the 10th Street access should be closed
- The City and MnDOT will abide by the County's conclusion
- If the County's conclusion is that the 10th Street access should be closed, the City will accept that conclusion and will not challenge MnDOT's termination of the 1993 LUP. An agreement would have to be made on who will pay for the closure.
- If the County's conclusion is that the 10th Street access should not be closed, MnDOT will accept that conclusion and will withdraw its purported termination of the 1993 LUP
- Alternatively, rather than having the County make the final conclusion, perhaps MnDOT, the City, and the County selected a mutually agreeable engineering firm (such as WSB or SRF or Stantec or other) to perform the intersection evaluation and we all agree to live with the engineering firm's conclusion. Perhaps MDOT would find that preferable to living with the County's conclusion.

I will have spoken to Washington County about these options prior to the work session. City Attorney Thomsen will be in attendance at the work session to participate in this discussion and provide legal consultation.



May 3, 2021

Christina Volkers
Oakdale City Administrator
1584 Hadley Ave N
Oakdale, MN 55128

Sent by email only: christina.volkers@ci.oakdale.mn.us

Re: 10th Street Temporary Access LUP

Dear Ms. Volkers:

At the work session held on April 13, 2021, the Oakdale City Council asked MnDOT to allow the Washington County intersection project to proceed this spring as-is with the north driveway at 10th Street remaining, followed by an evaluation period to determine if the County project addressed the ongoing safety and operational issues at the intersection.

MnDOT is agreeable to the City's request and has notified Washington County to proceed with the intersection project as-is. The County anticipates the intersection project will re-start in mid-May and the work will be completed by the end of June.

The 1993 Limited Use Permit ("1993 LUP") for the north driveway approach at 10th Street was terminated by MnDOT on April 5, 2021. Because the 1993 LUP is no longer valid, a new LUP will need to be developed and agreed to by the City and MnDOT to allow the driveway to remain during the evaluation period. MnDOT will draft a new LUP and present it to the City for review and comment. I anticipate that the details of the LUP will be worked out between the City and MnDOT this summer. If the parties are not able to approve a new LUP this summer, MnDOT will seek to remove the driveway in 2022.

The County improvements will need to be in place for at least 3-years to have meaningful crash and operations data. The new LUP will therefore have a term of 5-years so that the intersection safety and operations can be re-evaluated following the 3-year data period. The City will be required to perform this intersection evaluation at City expense.

The new LUP will include terms requiring that all parties seeking to develop in the area be notified of the temporary permitted status of the 10th Street driveway. Development planning shall direct that the primary access is to/from Helmo Ave and the 10th Street driveway is considered a temporary secondary access. The city will not allow any further improvements to the 10th Street access or the connecting driveway beyond what is being improved with the County project in 2021. The LUP will dictate that MnDOT has the right to regulate and control access to the trunk highway system and that the LUP may be cancelled at any time for any reason upon the notice provided in the LUP. If the LUP is terminated and driveway removed at MnDOT's request before the end of the 3-year evaluation period, the cost of removal will be at MnDOT's expense. If the driveway is removed following the evaluation period, the cost of removal will be at City expense.

If you have any questions about this letter please contact Adam Josephson, MnDOT East Area Manager.

Sincerely,

Michael Barnes
MnDOT Metro District Engineer

CC: Adam Josephson, MnDOT
Wayne Sandberg, Washington County

Equal Opportunity Employer