



Hermantown City Council Meeting - Tuesday, February 21, 2023

Hermantown's upcoming City Council meeting will include both remote access and in-person access to Council Chambers. The remote access will be available through the platform, "Zoom," which allows the public to view and participate in the meeting via phone or computer. Interested parties can also choose to attend the City Council meetings in person at City Hall.

Remote access to the 6:30 p.m. City Council Meeting via Zoom:

<https://us02web.zoom.us/j/84409952143?pwd=cGdaNzZmU2NYdGxsUDIQVDVxeU9LQT09>

and/or by calling the number (312) 626-6799 and utilizing the meeting ID number of 844 0995 2143 and the passcode of 0260647091.

Public comment may also be submitted in advance of the meeting. Comments, questions, or concerns can be e-mailed to Community Engagement Director, Joe Wicklund, at jwicklund@hermantownmn.com up to 3:30 p.m. the day of the meeting with the e-mail title "City Council Meeting." It is important to note that all comments regarding this meeting are public data.

A few important tips regarding the Zoom platform:

- If your computer does not support audio, you can still watch the meeting on your computer and call in on your phone to hear the meeting
- Everyone has varying levels of comfort regarding remote technology, so grace and understanding are appreciated

The 4:30 p.m. Pre-Agenda Meeting will be available in-person only at City Hall. Public comment is not a factor in the pre-agenda meeting, but the meeting is open and members of the public are invited and welcome to attend to this meeting.



AGENDA

Pre-Agenda Meeting Tuesday, February 21, 2023 at 4:30 p.m. Council Chambers, City Hall - Hermantown Governmental Services Building

Pre-agenda: The Pre-agenda meeting is a work session between the City Council and City staff to review the upcoming City Council meeting and future meetings. The agenda is the same document as the upcoming City Council meeting, but does not follow the same format as the City Council meeting. It is a time for the City Council and City staff to have discussions about the agenda items, and asking and answering questions. Traditionally it is not a time for public comment on the agenda items, as the public can listen to the conversation and ask questions or provide input at the upcoming City Council meeting.

City Council Meeting Tuesday, February 21, 2023 at 6:30 p.m. Council Chambers, City Hall - Hermantown Governmental Services Building

Invitation to participate:

The Hermantown City Council welcomes your thoughts, input and opinions to this meeting. The agenda for this meeting contains a brief description of each item to be considered, and the City Council encourages your participation. If you wish to speak on an item contained in the agenda, you will be allowed to address the Council when a motion is on the floor. If you wish to speak on a matter that does not appear on the agenda, you may do so during the public comment period regularly scheduled and set for the beginning of the meeting.

When addressing the City Council, please state your name and address for the record. Please address the City Council as a whole through the Mayor. Comments to individual Council Members or staff are not permitted. Speakers will be limited to three (3) minutes.

Order of discussion

1. Reading of the resolution title by Mayor
2. Motion/Second
3. Staff Explanation
4. Initial Discussion by City Council
5. Mayor invites public to speak to the motion (3-minute rule)
6. Follow up staff explanation and/or discussion by City Council
7. Call of the vote

**CITY OF HERMANTOWN
AGENDA**

**Pre-Agenda Meeting Tuesday, February 21, 2023 at 4:30 p.m.
Council Chambers, City Hall - Hermantown Governmental Services Building**

**City Council Meeting Tuesday, February 21, 2023 at 6:30 p.m.
Council Chambers, City Hall - Hermantown Governmental Services Building**

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **ANNOUNCEMENTS**
Council Members may make announcements as needed.
5. **PUBLIC HEARING**
Only when necessary. The rule adopted three minutes per person if necessary. Any action required after the public hearing will be taken immediately following the closing of the public hearing.
 - A. Public Comment Period on Revisions to the Use of Body Worn Cameras Policy
6. **COMMUNICATIONS**
 - A. Correspondence 23-29 through 23-32 placed on file 5
7. **PRESENTATIONS**
 - A. **Proposed Spongy Moth Treatment Outreach** 7
Danielle DeVito, Pest Mitigation and Regulatory Coordinator
MN Department of Agriculture
(Pre-Agenda Only)
 - B. **Preliminary 4th Quarter Financials** 13
Kevin Orme, Director of Finance & Administration
(Pre-Agenda Only)
8. **PUBLIC DISCUSSION**
This is the time for individuals to address the Council about any item not on the agenda. The time limit is three minutes per person.
9. **MOTIONS**
 - A. Motion to approve/deny the following new Massage Licenses effective February 22, 2023 through December 31, 2023 contingent upon complete applications being received, successful background checks and licenses fees paid in full:

The Well Co. Todd Grondahl
The Well Co. Grace Leider

(motion, roll call)

10. **CONSENT AGENDA**

All items on the Consent Agenda are items which are considered routine by the City Council and will be approved by one motion via voice vote. There will be no discussion of these items unless a Council Member or citizen requests, in which event the item will be removed from the Consent Agenda and considered at the end of the Consent Agenda.

- A. **Minutes** - Approval or correction of February 6, 2023 City Council Continuation Minutes **15**
- B. **Accounts Payable** - Approve general city warrants from February 1, 2023 through February 15, 2023 in the amount of \$698,426.33 **20**

11. **ORDINANCES**

12. **RESOLUTIONS**

Roll call will be taken only on items required by law and items requiring 4/5's votes, all others can be done by voice vote.

- A. **2023-19 Resolution Approving Modifications To The Use Of Body Worn Cameras Policy** **25**

(motion, roll call)

- B. **2023-20 Resolution Approving Modifications To The Citizen Complaint Policy And Procedures Regarding Officer Misconduct For The Hermantown Police Department** **41**

(motion, roll call)

- C. **2023-21 Resolution Authorizing And Directing Mayor And City Clerk To Execute An Acceptance Of Easement Agreement To The City Of Hermantown From Gordon S. Halverson** **62**

(motion, roll call)

13. **RECESS**

Date: February 15, 2023
To: City Council
From: John Mulder, City Administrator
RE: Correspondence

In your agenda packet is a correspondence summary log. This briefly summarizes and assigns a log number for written correspondence received at City Hall.

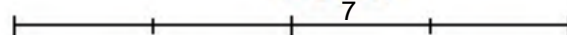
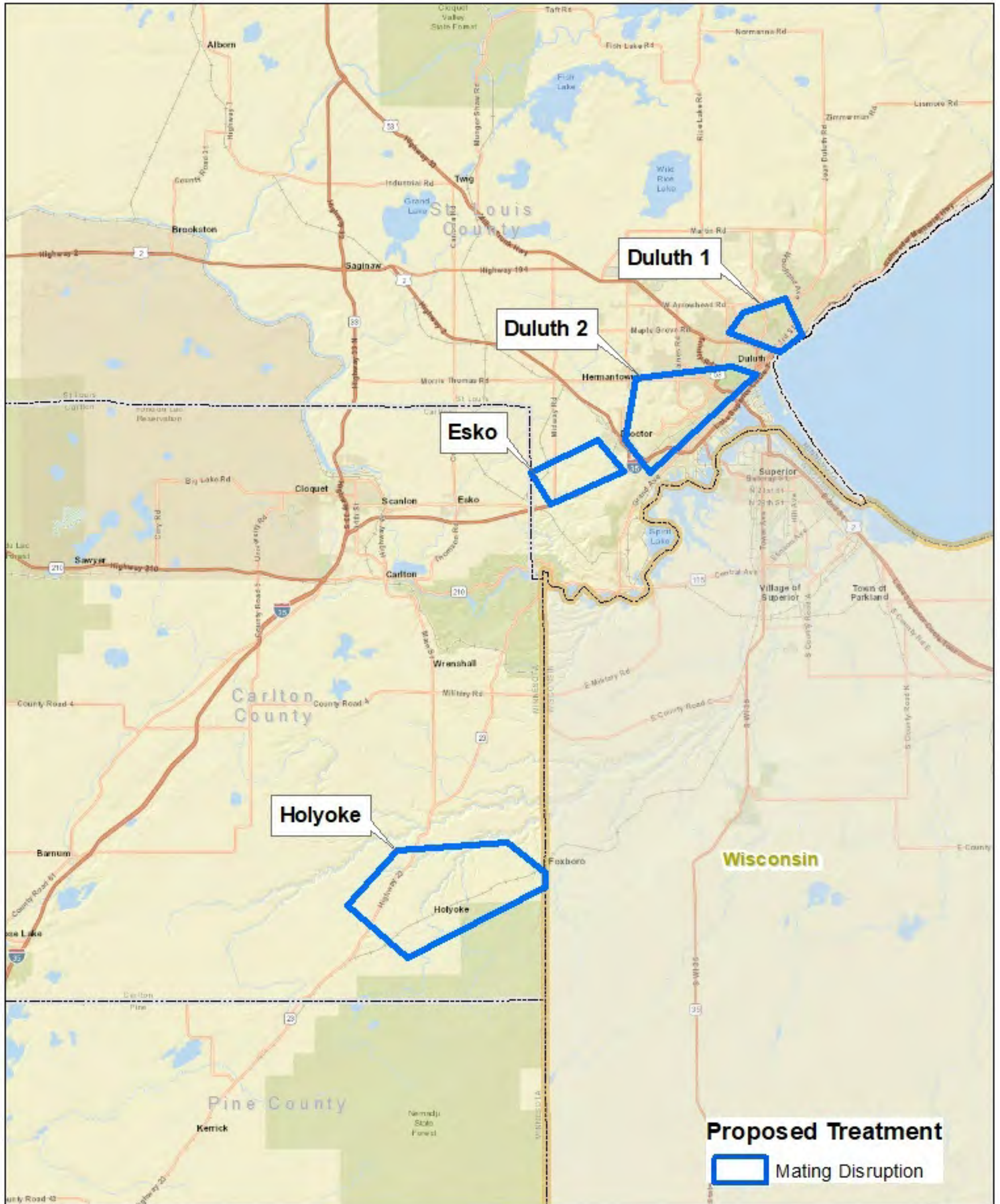
You are provided with the summary so that you may request a full copy of any correspondence article of interest to you.

I have included in the agenda packet only the correspondence that we believe to be of special interest.

2023 CORRESPONDENCE

<u>DATE</u>	<u>LOG #</u>	<u>FROM</u>	<u>TO</u>	<u>REGARDING</u>	<u>FILED</u>
2/1/2023	23-29	Barb Cederberg, Gopher State One Call	City of Hermantown	Minnesota State Law & Rules	1/18/2023
2/3/2023	23-30	MN Dept of Revenue	Jackie Dolentz, City Clerk	Notification of Tax Rate Change Eff. 4/1/2023	1/26/2023
2/7/2023	23-31	Rep. Pete Stauber	Jackie Dolentz, City Clerk	Stauber Community Funding Projects	2/6/2023
2/13/2023	23-32	Marianne Bohren, WLSSD	John Mulder, City Administrator	2022 Wastewater Treatment Year-End Adjustment	2/3/2023

Proposed Spongy Moth (*Lymantria dispar*) Treatments 2023





SPONGY MOTH TREATMENT PROPOSED FOR YOUR AREA

Public Meeting at Duluth City Hall

March 7, 2023

6:00 - 8:00 PM

www.mda.state.mn.us/smtreatments

See details on reverse side



The Minnesota Department of Agriculture (MDA), in collaboration with federal, state, and local partners, is proposing to treat isolated spongy moth populations around Duluth, Esko, and Holyoke in the summer of 2023. Spongy moths are an invasive insect, and a state monitoring program has found a high number of moths in the area. Because of these finds, the MDA is proposing to treat approximately 26,000 acres. Visit www.mda.state.mn.us/smtreatments for more information.

What is a spongy moth and why control it?

The European spongy moth (*Lymantria dispar*) is not native to the United States. However, it is now established in northeastern Minnesota and much of Wisconsin. The caterpillars can strip trees of their leaves, and high numbers of caterpillars can annoy homeowners and communities and possibly cause human health issues.

The treatments proposed for 2023 will delay the moth's expansion in Minnesota and beyond. This delay can hold off a costly, full-scale infestation and protect natural and urban forest health, local property values, and the quality of outdoor recreation activities.

How does the MDA control spongy moth?

The MDA uses a biodegradable, organic mating disruptant that releases the scent of female moths to confuse male moths so they do not find a mate. It does not kill any moth; it simply prevents the males from finding a mate to reproduce. The mating disruptant is not toxic to people, animals, bees, butterflies, or other caterpillars. All ingredients in the mating disruptant are listed as organic, safe for use in food, and non-toxic by the Environmental Protection Agency (EPA).

Treatment is conducted from aircrafts, flying low and back and forth to apply treatment to the treetops, typically starting in the morning and running until midafternoon. The treatment would occur between July 6 and July 21.

How will I know when treatments will be applied?

The treatment would occur between July 6 – July 21.

- **Check your mail.** The MDA will send a postcard in June that will identify a timeframe for the treatments.
- **Go to www.mda.state.mn.us/smtreatments** to sign up for text or email messages.
- **Text** "MNMDA MOTH" to 66468 to receive text updates.
- **Or text** "MNMDA MOTH [your email address here]" to 66468 to receive email updates.

Informational Meetings

Duluth City Hall: March 7 at 6 PM
Room 330, 411 W 1st Street, Duluth, MN

Online: March 9 at 10 AM and 6:30 PM

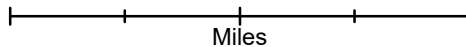
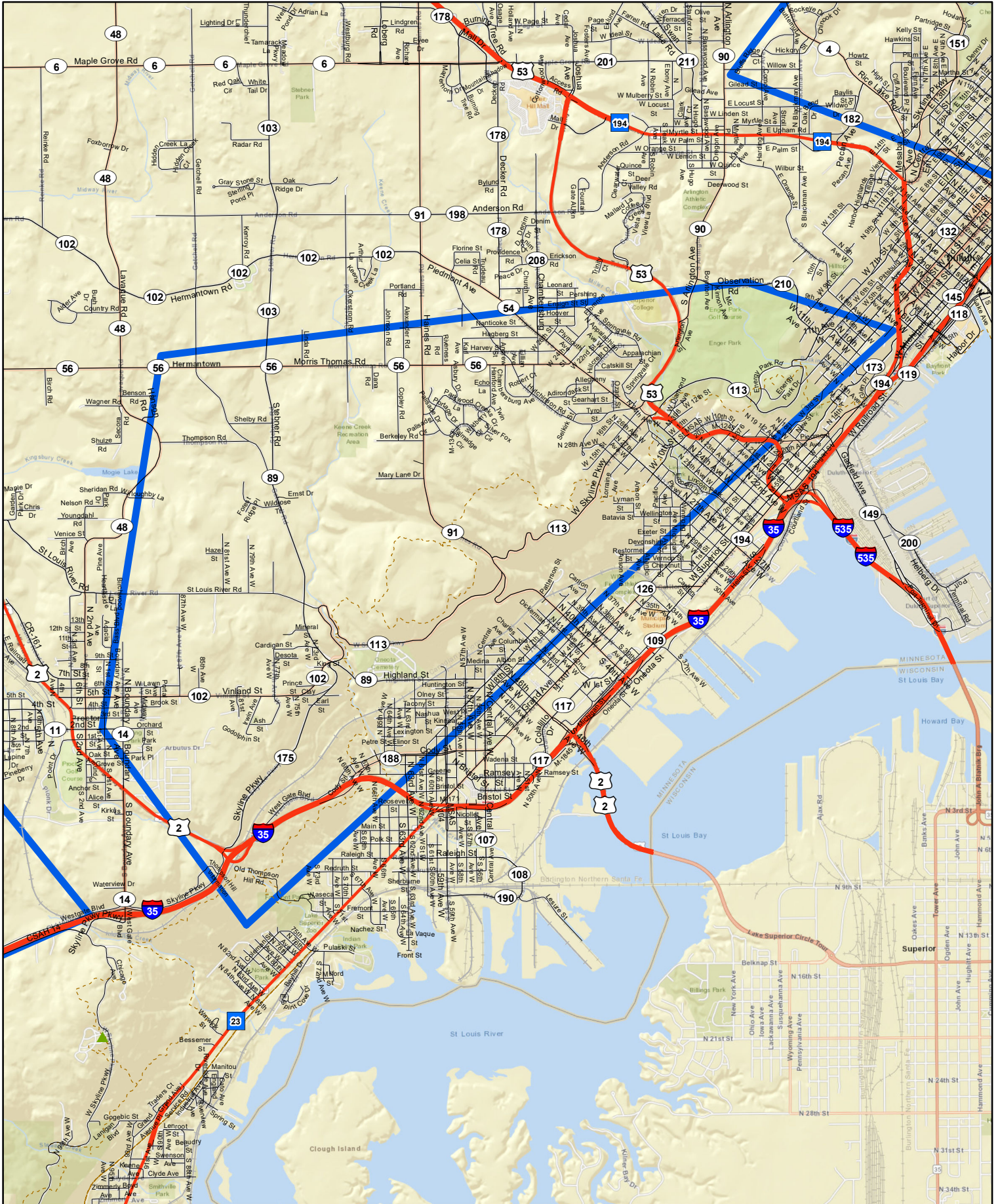
Register at

www.mda.state.mn.us/smtreatments

Proposed Spongy Moth (*Lymantria dispar*) Treatments 2023



Proposed Spongy Moth (*Lymantria dispar*) Treatments 2023





ADULT MALE
DAYTIME FLIER



PUPA
PUPATES FOR 2 WEEKS



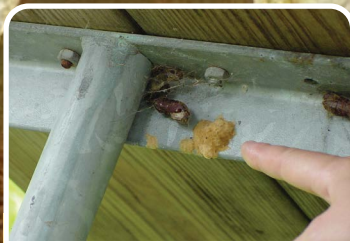
MULTIPLE SPONGY MOTH
LIFE STAGES ON A TREE



LATE INSTAR LARVA FEEDS 5-6 WEEKS



ADULT FEMALE WITH EGG MASS



SPONGY MOTH HITCHHIKING
ON A PICNIC TABLE

Wisconsin Department of Natural Resources

These are NOT Spongy Moth:

- Caterpillars that make tents or webs
- Late instar caterpillars without 5 pairs of blue and 6 pairs of red dots
- Caterpillars that feed in the fall
- Adult moths that feed or are attracted to light



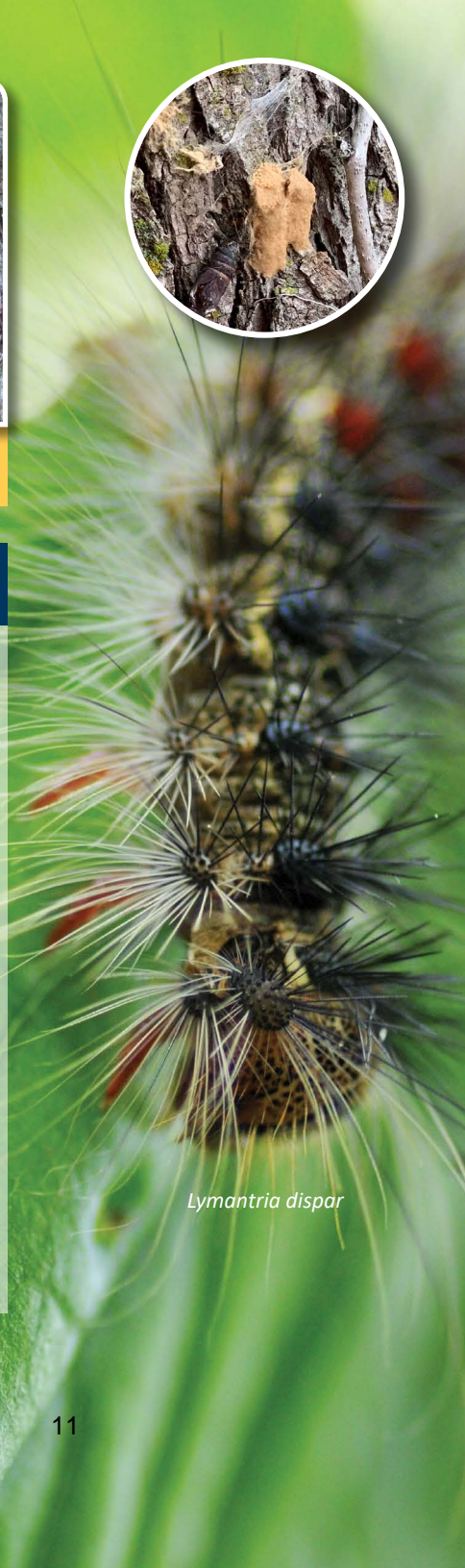
EASTERN TENT
CATERPILLAR



FALL WEBWORM



FOREST TENT
CATERPILLAR



Lymantria dispar

SPONGY MOTH

What is a Spongy Moth?

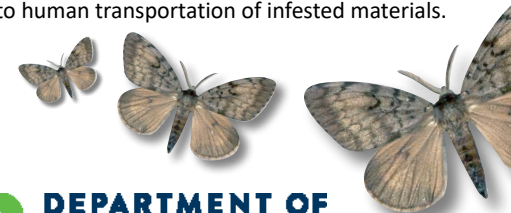
The spongy moth (*Lymantria dispar*) is a leaf-feeding insect that belongs to the order Lepidoptera (butterflies and moths). It was imported to Massachusetts from Europe in 1869 in a failed attempt to cross-breed with the silk worm for a more cold-hardy hybrid. The moths escaped, headed for the trees, and were soon chomping their way through New England's forests and infesting urban trees. With the ability to feed and survive on over 300 tree and woody plant species and leaving natural enemies behind in Europe, spongy moth now ranks as one of the most destructive invasive pests to trees and shrubs in the U.S.

Is Spongy Moth in Minnesota?

Spongy moths have started making their way into Minnesota as the invasion front pressure pushes eastward from western Wisconsin. Minnesota's Lake and Cook counties were the first to be quarantined for spongy moth in 2014. Quarantines are laws which make it illegal to move items that may contain plant pests. The invaders will continue to move westward, but not without a fight!

Minnesota participates in a national spongy moth program called Slow the Spread (STS). STS targets spongy moth with early detection trapping and follow-up treatments. The program significantly delays the spread and establishment of the pest as well as the costs and burdens associated with management once it is established.

Each year the Minnesota Department of Agriculture sets ~20,000 pheromone (female scented) traps designed to capture male moths. This is an extremely effective method to detect small and otherwise undetectable start-up populations. Minnesota has treated over 150 start-up populations since 1980, many of which were traceable to human transportation of infested materials.



In accordance with the Americans with Disabilities Act, this information is available in alternative forms of communication upon request by calling 651-201-6000. TTY users can call the Minnesota Relay Service at 711. The MDA is an equal opportunity employer and provider.

For More Information



Report a Pest
888-545-6684 (Toll Free)
reportapest@state.mn.us
mda.state.mn.us/reportapest

Why is Spongy Moth a Problem?

- Spongy moths are among North America’s most destructive, non-native, invasive forest insect pests. They defoliate millions of acres of forests and urban trees annually.
- Each spongy moth egg mass will produce up to 1,000 new caterpillars. During an outbreak, millions of hungry caterpillars are feeding and consuming massive amounts of foliage, placing enormous stress on trees. Defoliated trees are more susceptible to disease and other insects that may ultimately kill them. Defoliation destroys habitats for mammals and birds.
- All of this feeding is very noisy and fouls the environment with a layer of droppings and shed skins before the caterpillars pupate.
- Female spongy moths deposit egg masses on the nearest available surface. This includes outdoor recreation equipment, grills, lawn chairs, vehicles, tents, and firewood. This allows them to easily hitchhike to new areas.

If You Find a Trap, Remember...



- Don’t disturb the trap. Survey traps are our BEST early detection system for finding spongy moths before they damage our trees.
- “Delta” traps are not toxic to humans or pets, but they contain a sticky substance inside that the moths get stuck in.
- “Milk carton” traps are designed to trap high numbers of moths. They contain a pesticide strip that kills the moths when they enter.

Eggs

Eggs are laid in a fuzzy, buff-colored, spongy mass about the size of a quarter. Each egg mass contains an average of 500 – 1,000 eggs. Eggs are laid starting in late summer or fall and hatch the following spring. Egg masses may be laid on tree trunks, logs, under tree wraps, wheel wells, or on almost any available surface.

Caterpillar (larva)

This is the only damaging stage. The caterpillars are voracious feeders and can grow to 2” in length. The older, larger caterpillars have five pairs of blue spots and six pairs of rusty red spots along their backs. They typically feed in the treetops at night but migrate down the trunk to the ground each day.

Pupa (cocoon)

The pupa is an immobile stage during which the caterpillar changes into an adult moth. Pupae may wiggle if they are disturbed, but left alone they will appear still as the change occurs. They are dark, reddish brown, and leathery. Pupae attach themselves to a vertical surface with strands of silk. They are usually found in crevices on tree trunks or on larger branches. Pupae may also be found buried in leaf litter, attached to the sides of houses, under picnic tables, or on almost any available surface. Female pupae are larger than male pupae.

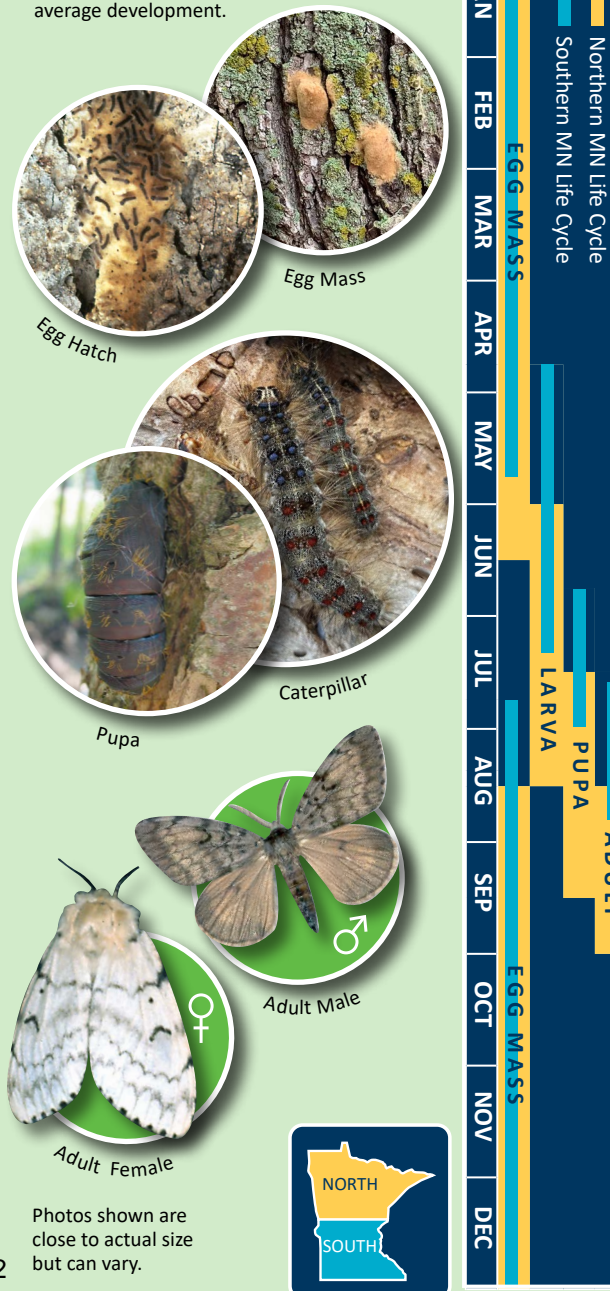
Adult (winged moth)

ADULT MOTHS emerge in mid-summer and they do not feed – their sole purpose is to mate.

FEMALES are 1-2” long with tan bodies and cream-colored wings that have dark zig-zag patterns and a distinct “comma” marking on each wing. The feathered antennae are less pronounced than males. They do not fly because they are too heavy (full of eggs). Females emit a scent (pheromone) to attract a mate. Scientists have been able to mimic this scent, using it to trap male moths and to conduct mating disruption treatments.

Males are smaller than the females, brownish gray, have feathered antennae, and fly during the day. Males also have dark zig-zag patterns and a distinct “comma” marking on each wing.

Spongy moth life cycles depend on weather, which varies annually. The chart shows average development.



Photos shown are close to actual size but can vary.



What is a Spongy Moth Quarantine?

Areas are quarantined for spongy moth once the moths have invaded and become permanently established. Spongy moth quarantines are intended to slow the human-assisted or artificial spread of spongy moth from infested to non-infested areas. The quarantine makes it illegal to transport potentially infested items (such as logs, firewood, nursery stock, campers, and picnic tables) from the quarantined area to a non-quarantined area without first taking appropriate actions. For the general public, self-inspection of items that could be harboring spongy moth and removal of all spongy moth life stages is required prior to moving items to a non-quarantined area.

What Can I Do? Self-Inspect for “Hitchhikers”:

- Become familiar with all spongy moth life stages and the timing of their annual life cycle.
 - Know which counties of Minnesota and the rest of the United States are quarantined for spongy moth.
- Lake and Cook counties were the first in Minnesota to be quarantined for spongy moth in 2014. Other states that have quarantines include Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Wisconsin.
- Don’t let spongy moth hitch a ride! Before leaving a quarantined county or area, always self-inspect outdoor household articles, equipment, vehicles, etc. Remove and destroy any spongy moth life stages you find before traveling to non-quarantined areas.
 - Report suspect spongy moth life stages:



City of Hermantown

As of 12/31/2022

Cash/Investments per Fund

City Sales Tax Fund	8,616,025
Water Fund	5,399,058
Sewer Fund	5,903,694
General Fund	5,306,584
Other	12,227,546
Total	<u>37,452,906</u>

Who holds our money

4M	3,759,722
RBC	26,560,590
NBC	7,132,594
Total	<u>37,452,906</u>

How our money is invested














	<u>12/31/2022</u>
Cash	7,132,594
Short Term Inv (Money Market)	3,759,722
Inv - Bonds (Section 24 & Road Plan)	0
Long Term Investment	26,560,590
Total	<u>37,452,906</u>

Year our Investments mature

2023	8,738,077
2024	6,631,851
2025	7,368,737
2026 & Later	3,821,925
Total	<u>26,560,590</u>

City of Hermantown

Select Departmental and Funds Expenditure Actual to Budget Report (Unaudited)

		TARGET (Q4 2022)	Prelim. ACTUAL (Q4 2022)	PERCENT UNDER (OVER)
Administration & Finance		711,219	709,010	0%
Community Development		288,164	203,448	29%
Police Administration		3,076,349	3,224,821	(5%)
Fire Administration		536,795	536,795	0%
Street Dept. (Incl. Gen Eng)		778,668	883,980	(14%)
Parks		139,172	155,939	(12%)
Capital Equipment Transfer		475,000	475,000	0%
Facilities		295,205	382,884	(30%)
Other		432,414	402,813	7%
General Fund Expenditure Total		6,732,986	6,974,690	(4%)
Water		1,777,991	1,561,860	12%
Sewer		2,015,613	1,206,013	40%
Stormwater		466,626	267,117	43%
Sales Tax Revenue		3,000,000	3,849,071	28%

Police - Red due to Overtime, Fuel, Guns, Ammo, Uniform, Computers, Vehicle Maint, Other Equip

Streets - Red due to Salaries, Overtime, Fuel, Equipment Maintenance

Parks - Red due to being overbudget in items such as equipment rental

Also unbudgeted snowmobile grant expense and purchased broom for trails

Facilities - Red due to City Hall utilities and maintenance being substantially over budget

**CITY OF HERMANTOWN
CITY COUNCIL MEETING**

Monday, February 6, 2023
6:30 PM Central

MEETING CONDUCTED IN PERSON & VIA ZOOM

Mayor Wayne Boucher: Present
Councilor John Geissler: Present
Councilor Andy Hjelle: Present
Councilor Ellie Jones: Present (sworn in and seated approximately 6:40 p.m.)
Councilor Brian LeBlanc: Present

CITY STAFF: John Mulder, City Administrator; Jackie Dolentz, City Clerk; Eric Johnson; Community Development Director; Joe Wicklund, Communications & Community Engagement Director; Paul Senst, Public Works Director; Kevin Orme, Director of Finance & Administration; Adam Schminski, Building Official; Jim Crace, Chief of Police; David Bolf, City Engineer; Gunnar Johnson, City Attorney

VISITORS: 8

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **ANNOUNCEMENTS**

Welcome to Ellie Jones to the City Council.

5. **PUBLIC HEARING**
6. **COMMUNICATIONS**

A. Correspondence 23-11 through 23-28 placed on file

B. 23-19

From: Ellen & Ron Minter, Hermantown Residents
To: Mayor & City Council
Re: Thank You Andy Hjelle and Reliable Insurance

7. **PRESENTATIONS**

A. Planning & Zoning Annual Update

Eric Johnson, Community Development Director
(Pre-Agenda Only)

B. 2022 Bow Hunt Statistics

Jim Crace, Chief of Police
(Pre-Agenda Only)

C. Extension of Okerstrom Road and Oak Ridge Sewer

John Mulder, City Administrator
(Pre-Agenda Only)

8. **PUBLIC DISCUSSION**

9. **MOTIONS**

A. Motion to appoint Ellie Jones to City Council effective February 6, 2023 and have her be sworn in and seated immediately.

(motion, roll call)

Motion to approve Ellie Jones to the City Council, effective February 6, 2023 and have her sworn in and seated immediately. This motion, made by Councilor Andy Hjelle and seconded by Councilor Brian LeBlanc, Carried.

Mayor Wayne Boucher: Yea
Councilor John Geissler: Yea
Councilor Andy Hjelle: Yea
Councilor Ellie Jones: Not Seated Yet
Councilor Brian LeBlanc: Yea

Yea: 4, Nay: 0, Absent: 1 (Councilor Jones not seated yet)

B. Motion to approve/deny the following new Massage Licenses:

The Well Co. Brian Schrupp
The Well Co. Sandra Schrupp

(motion, roll call)

Motion to approve massage therapist licenses for Brian Schrupp and Sandra Schrupp for The Well Co. This motion, made by Councilor John Geissler and seconded by Councilor Andy Hjelle, Carried.

Councilor John Geissler: Yea
Councilor Andy Hjelle: Yea
Councilor Ellie Jones: Yea
Councilor Brian LeBlanc: Yea
Mayor Wayne Boucher: Yea

Yea: 5, Nay: 0

10. **CONSENT AGENDA**

A. Minutes - Approval or correction of January 17, 2023 City Council Continuation Minutes

B. Minutes - Approval or correction of January 30, 2023 City Council Work Session Continuation Minutes

C. Accounts Payable - Approve general city warrants from January 15, 2023 through January 31, 2023 in the amount of \$3,720,404.37

Motion to approve the Consent Agenda. This motion, made by Councilor Brian LeBlanc and seconded by Councilor Ellie Jones, Carried.

Councilor John Geissler: Yea
Councilor Andy Hjelle: Yea
Councilor Ellie Jones: Yea
Councilor Brian LeBlanc: Yea
Mayor Wayne Boucher: Yea
Yea: 5, Nay: 0

11. **ORDINANCES**

12. **RESOLUTIONS**

A. 2023-13 Resolution Awarding Contract For 2023 GMC Sierra 3500HD Truck Chassis In The Amount Of \$50,384.00 Plus Applicable Taxes And Fees

(motion, roll call)

Motion to approve 2023-13 Resolution Awarding Contract For 2023 GMC Sierra 3500HD Truck Chassis In The Amount Of \$50,384.00 Plus Applicable Taxes And Fees. This motion, made by Councilor Andy Hjelle and seconded by Councilor John Geissler, Carried.

Councilor John Geissler: Yea
Councilor Andy Hjelle: Yea
Councilor Ellie Jones: Yea
Councilor Brian LeBlanc: Yea
Mayor Wayne Boucher: Yea
Yea: 5, Nay: 0

B. 2023-14 Resolution Awarding Purchase Of An Antenna For The Advanced Metering Infrastructure For Water Meters In The Amount of \$91,420.00

(motion, roll call)

Motion to approve 2023-14 Resolution Awarding Purchase Of An Antenna For The Advanced Metering Infrastructure For Water Meters In The Amount of \$91,420.00. This motion, made by Councilor Brian LeBlanc and seconded by Councilor Andy Hjelle, Carried.

Councilor John Geissler: Yea
Councilor Andy Hjelle: Yea
Councilor Ellie Jones: Yea
Councilor Brian LeBlanc: Yea
Mayor Wayne Boucher: Yea
Yea: 5, Nay: 0

C. 2023-15 Resolution Authorizing The Disposal Of Surplus City Property

(motion, roll call)

Motion to approve 2023-15 Resolution Authorizing The Disposal Of Surplus City Property. This motion, made by Councilor John Geissler and seconded by Councilor Ellie Jones, Carried.

Councilor John Geissler: Yea
Councilor Andy Hjelle: Yea
Councilor Ellie Jones: Yea
Councilor Brian LeBlanc: Yea
Mayor Wayne Boucher: Yea
Yea: 5, Nay: 0

D. 2023-16 Resolution Authorizing And Directing Mayor And City Clerk to Execute Addendum To Engineering Contract For Road Improvement District No. 534 (Ugstad Road) With MSA Professional Services, Inc.

(motion, roll call)

Motion to approve 2023-16 Resolution Authorizing And Directing Mayor And City Clerk to Execute Addendum To Engineering Contract For Road Improvement District No. 534 (Ugstad Road) With MSA Professional Services, Inc. This motion, made by Councilor Ellie Jones and seconded by Councilor Brian LeBlanc, Carried.

Councilor John Geissler: Yea
Councilor Andy Hjelle: Yea
Councilor Ellie Jones: Yea
Councilor Brian LeBlanc: Yea
Mayor Wayne Boucher: Yea
Yea: 5, Nay: 0

E. 2023-17 Resolution Approving Participation in Opioid Litigation Settlements And Authorizing And Directing The Mayor And City Clerk To Execute A Memorandum of Agreement To Provide For The Equitable Distribution Of Settlement Procedures

(motion, roll call)

Motion to approve 2023-17 Resolution Approving Participation in Opioid Litigation Settlements And Authorizing And Directing The Mayor And City Clerk To Execute A Memorandum of Agreement To Provide For The Equitable Distribution Of Settlement Procedures. This motion, made by Councilor John Geissler and seconded by Councilor Ellie Jones, Carried.

Councilor John Geissler: Yea
Councilor Andy Hjelle: Yea
Councilor Ellie Jones: Yea
Councilor Brian LeBlanc: Yea
Mayor Wayne Boucher: Yea
Yea: 5, Nay: 0

F. 2023-18 Resolution Authorizing The City of Hermantown To Sponsor A Grant Funding Request Associated With The Twins Fields For Kids Ball Field Renovation Grant

(motion, roll call)

Motion to approve 2023-18 Resolution Authorizing The City of Hermantown To Sponsor A Grant Funding Request Associated With The Twins Fields For Kids Ball Field Renovation Grant. This motion, made by Councilor Brian LeBlanc and seconded by Councilor John Geissler, Carried.

Councilor John Geissler: Yea

Councilor Andy Hjelle: Yea

Councilor Ellie Jones: Yea

Councilor Brian LeBlanc: Yea

Mayor Wayne Boucher: Yea

Yea: 5, Nay: 0

13. **CLOSED SESSION**

Motion to close the regular meeting of the Hermantown City Council at 6:50 p.m. to go into a closed session pursuant to the following statute and stated reason: Minnesota Statutes Section 13D.05 Subd 3 (c) (3) to develop and consider an offer or counteroffer for the transfer of real property with the Hermantown School District within the City of Hermantown. This motion, made by Councilor John Geissler and seconded by Councilor Andy Hjelle, carried unanimously.

Motion made by Mayor Boucher, seconded by Councilor Hjelle, to re-convene into open session at 7:57 p.m. Motion carried unanimously.

14. **RECESS**

Motion to Recess at 7:58 p.m. This motion, made by Councilor John Geissler and seconded by Councilor Andy Hjelle, carried unanimously.

ATTEST:

Mayor

City Clerk

CITY OF HERMANTOWN

CHECKS #69632-69669
02/01/2023-02/15/2023

PAYROLL CHECKS

Electronic Checks - #-68221-68261 \$77,211.85

LIABILITY CHECKS

Electronic Checks - #-68262-68263 \$80,922.06

Electronic Checks - #-68216-68220 \$58,255.90

Checks - #69632 \$1,180.18

PAYROLL EXPENSE TOTAL \$217,569.99

ACCOUNTS PAYABLE

Checks - #69633-69669 \$392,335.05

Electronic Payments #-99504-99523 \$88,521.29

ACCOUNTS PAYABLE TOTAL \$480,856.34

TOTAL \$698,426.33

Fun d	Account	Department	Vendor Name	Description	Amount	Check #
101	415300	Administration & Finance	AT&T MOBILITY	Cell Phones/Tablets-PW/CH	149.26	-99523
101	419901	City Hall & Police Building Maintenance	AT&T MOBILITY	Cell Phones/Tablets-PW/CH	44.87	-99523
101	421100	Police Administration	AT&T MOBILITY	Cell Phones PD	1,367.89	-99523
101	431100	Street Department	AT&T MOBILITY	Cell Phones/Tablets-PW/CH	157.08	-99523
601	494400	Water Administration and General	AT&T MOBILITY	Cell Phones/Tablets-PW/CH	228.12	-99523
602	494900	Sewer Administration and General	AT&T MOBILITY	Cell Phones/Tablets-PW/CH	181.94	-99523
101	415300	Administration & Finance	GREATAMERICA FINANCIAL SERVICES	Copier Lease/Konica C458	117.87	-99522
101	421100	Police Administration	GREATAMERICA FINANCIAL SERVICES	Copier Lease/Konica C300&C3320	209.08	-99522
101	419901	City Hall & Police Building Maintenance	MN ENERGY RESOURCES CORP	Natural Gas CH/PD	2,643.63	-99521
101	419901	City Hall & Police Building Maintenance	MN ENERGY RESOURCES CORP	Natural Gas -CH/PD	2,334.17	-99521
101	422901	Firehall #1 Maple Grove Road	MN ENERGY RESOURCES CORP	Natural Gas -FH #1	2,852.87	-99521
101	431901	City Garage	MN ENERGY RESOURCES CORP	Natural Gas Lightning Dr	646.26	-99521
101	431901	City Garage	MN ENERGY RESOURCES CORP	Natural Gas Comm Building	233.08	-99521
101	431901	City Garage	MN ENERGY RESOURCES CORP	Natural Gas old CH	161.86	-99521
601	494400	Water Administration and General	MN ENERGY RESOURCES CORP	Natural Gas Lightning Dr	738.58	-99521
602	494900	Sewer Administration and General	MN ENERGY RESOURCES CORP	Natural Gas Lightning Dr	461.61	-99521
275	452200	Community Building	MN ENERGY RESOURCES CORP	Natural Gas EWC	15,981.38	-99521
101	452200	Community Building	MN ENERGY RESOURCES CORP	Natural Gas old CH	1,456.72	-99521
101	415300	Administration & Finance	PITNEY BOWES PURCHASE POWER	Refill Postage Meter SendPro P	99.01	-99520
101	217450	Employee Flexplan	WEX HEALTH INC	Claim Reimbursement	186.25	-99519
101	217450	Employee Flexplan	WEX HEALTH INC	Claim Reimbursement	1,577.33	-99519
101	217450	Employee Flexplan	WEX HEALTH INC	Claim Reimbursement	1,776.55	-99519
101	217450	Employee Flexplan	WEX HEALTH INC	Claim Reimbursement	255.26	-99519
230	465100	HEDA	CREATIVE ARCADE	Website Monthly Maintenance	250.03	-99518
101	421100	Police Administration	EMERGENCY AUTOMOTIVE TECHNOLOGIES INC	Up Fitted SQD 12	4,448.32	-99517
101	421100	Police Administration	EMERGENCY AUTOMOTIVE TECHNOLOGIES INC	Equipment - SDQ 11	10,476.60	-99516
601	494400	Water Administration and General	GOPHER STATE ONE-CALL INC	2023 Annual Fee	30.00	-99515
602	494900	Sewer Administration and General	GOPHER STATE ONE-CALL INC	2023 Annual Fee	20.00	-99515
602	494500	Sewer Maintenance	GREAT LAKES PIPE SERVICE INC	Sewer Clean - Stebner & Town	1,150.00	-99514
101	419901	City Hall & Police Building Maintenance	HARTEL'S/DBJ DISPOSAL CO LLC	Garbage Recycling Jan 2023	315.87	-99513
101	431901	City Garage	HARTEL'S/DBJ DISPOSAL CO LLC	Yard Trash Disposal Jan 2023	180.30	-99513
230	465100	HEDA	MAMMOTH SPORTS CONSTRUCTION, LLC	Stebner Farms	15,000.00	-99512
601	494300	Water Distribution	MN MUNICIPAL UTILITIES ASSN	2023 Water Utility Member Dues	521.00	-99511
101	419901	City Hall & Police Building Maintenance	NORTHERN ENGINE & SUPPLY INC	Strobe Light	192.25	-99510
101	431100	Street Department	NORTHERN ENGINE & SUPPLY INC	Hyd Seal - JD Tractor	14.80	-99510
101	431100	Street Department	NORTHERN STATES SUPPLY INC 21	Washers & Bolts	39.90	-99509
101	431100	Street Department	NORTHERN STATES SUPPLY INC	Plow Bolts	82.00	-99509
101	415300	Administration & Finance	NORTHLAND CONSULTING ENGINEERS L.L.P.	Reimburse ShelDon Invoice	187.30	-99508

CITY OF HERMANTOWN, MN 02/01/2023-02/15/2023
Check # is between 69633 and 69699 or Check # is between -99523 and -99504

2/8/2023

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Fun d	Account	Department	Vendor Name	Description	Amount	Check #
402	431150	Street Improvements	NORTHLAND CONSULTING ENGINEERS L.L.P.	Ugstad Rd - SP 202-101-014	960.00	-99508
603	441100	Storm Water	NORTHLAND CONSULTING ENGINEERS L.L.P.	LindahI Rd Bridge Removal	1,399.00	-99508
603	441100	Storm Water	NORTHLAND CONSULTING ENGINEERS L.L.P.	Rocky Run Bridge Replacement	1,760.00	-99508
101	431130	City Engineer	NORTHLAND CONSULTING ENGINEERS L.L.P.	PO 2313 - MSA	480.00	-99508
101	431130	City Engineer	NORTHLAND CONSULTING ENGINEERS L.L.P.	Preagenda/City Council/Four Sq	1,120.00	-99508
240	432510	Trunk Sewer Construction	NORTHLAND CONSULTING ENGINEERS L.L.P.	Oak Ridge Dr. Sanitary Sewer E	3,685.00	-99508
101	214500	Escrow Deposits Payable	NORTHLAND CONSULTING ENGINEERS L.L.P.	Peyton Property Development	240.00	-99508
101	413100	Mayor	VC3	5 Port Switch	3.45	-99507
101	415300	Administration & Finance	VC3	5 Port Switch	20.68	-99507
101	421100	Police Administration	VC3	5 Port Switch	65.45	-99507
101	424100	Building Inspection	VC3	5 Port Switch	3.46	-99507
101	431100	Street Department	VC3	5 Port Switch	13.79	-99507
601	494400	Water Administration and General	VC3	5 Port Switch	10.34	-99507
602	494900	Sewer Administration and General	VC3	5 Port Switch	10.34	-99507
101	419900	General Government Buildings & Property	VC3	5 Port Switch	10.34	-99507
101	421100	Police Administration	NORTHEAST SERVICE COOPERATIVE	Health Ins Feb Inactives	3,717.68	-99506
101	134000	Retiree Insurance/Telephone Reimb.	NORTHEAST SERVICE COOPERATIVE	Health Ins Feb Inactives	1,167.72	-99506
101	134000	Retiree Insurance/Telephone Reimb.	NORTHEAST SERVICE COOPERATIVE	Dental Ins Feb Inact-Volk	44.00	-99505
101	134000	Retiree Insurance/Telephone Reimb.	NORTHEAST SERVICE COOPERATIVE	Dental Ins Feb Inact-Rich	113.00	-99505
602	212100	Other Accounts Payable	MN UI FUND	payment of prior year UI Balan	3,464.00	-99504
601	212100	Other Accounts Payable	MN UI FUND	payment of prior year UI Balan	3,464.00	-99504
101	427100	Poundmaster	ANIMAL ALLIES HUMANE SOCIETY	Oct Boarding	1,446.00	69633
101	427100	Poundmaster	ANIMAL ALLIES HUMANE SOCIETY	Dec Boarding	1,290.00	69633
409	419901	City Hall & Police Building Maintenance	BILLINGS ROOFING INC.	Roof Replacement - 1/2 down	197,701.00	69634
101	413100	Mayor	BOUCHER, WAYNE	Coalition of Greater MN Cities	35.00	69635
101	431100	Street Department	BOYER TRUCKS INC	Coolant Line	22.84	69636
602	494500	Sewer Maintenance	BRAUN INTERTEC CORPORATION	Sanitary Sewer Inspections	1,150.00	69637
101	422903	Firehall #3 Midway Road	CENTURYLINK	Internet FH3 01/22/23-02/21/23	79.98	69638
101	419901	City Hall & Police Building Maintenance	CINTAS CORPORATION	Mats at CH	8.88	69639
101	419901	City Hall & Police Building Maintenance	CINTAS CORPORATION	Mats at FD/PD	30.72	69639
101	431100	Street Department	CINTAS CORPORATION	Uniforms	9.72	69639
101	431100	Street Department	CINTAS CORPORATION	Uniforms	26.93	69639
101	431100	Street Department	CINTAS CORPORATION	Uniforms	26.93	69639
101	431100	Street Department	CINTAS CORPORATION	Uniforms	9.72	69639
101	431901	City Garage	CINTAS CORPORATION	Supplies	37.50	69639
101	431901	City Garage	CINTAS CORPORATION	Mats at PW	10.35	69639
101	431901	City Garage	CINTAS CORPORATION	Mats at PW	30.03	69639
101	431901	City Garage	CINTAS CORPORATION	Supplies - Rubber Gloves	260.00	69639

CITY OF HERMANTOWN, MN 02/01/2023-02/15/2023
Check # is between 69633 and 69699 or Check # is between -99523 and -99504

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Fun d	Account	Department	Vendor Name	Description	Amount	Check #
101	431901	City Garage	CINTAS CORPORATION	Supplies	22.50	69639
605	431160	Street Lighting	CITY OF DULUTH	2022 Street Light Maintenance	3,357.52	69640
602	494500	Sewer Maintenance	CITY OF DULUTH	Sewer Agreement 2022	33,162.24	69641
601	494300	Water Distribution	CORE & MAIN LP	Water Meters	360.96	69642
601	494300	Water Distribution	CORE & MAIN LP	Water Meters	360.43	69642
245	465100	HEDA	COSTIN GROUP MN	City Lobbyist	750.00	69643
101	431100	Street Department	GREYSTONE CONSTRUCTION, INC.	Contract Inspection on Salt Do	650.00	69644
101	419901	City Hall & Police Building Maintenance	HEINBUCH, GREG	Safety Boots	269.95	69645
101	431100	Street Department	HERMANTOWN HYDRAULICS	Hyd Line - H4	75.35	69646
101	411300	Ordinance, Public Notice and Proceedings	HERMANTOWN STAR LLC	City Council Position	99.00	69647
101	411300	Ordinance, Public Notice and Proceedings	HERMANTOWN STAR LLC	City Council Minutes	99.00	69647
101	419100	Community Development	HERMANTOWN STAR LLC	Public Hearing P&Z	33.00	69647
245	422100	Fire Administration	HERMANTOWN VOLUNTEER FIRE DEPT	ARPA Refund/Reimbursement	24,451.12	69648
245	422100	Fire Administration	HERMANTOWN VOLUNTEER FIRE DEPT	ARPA Refund/Reimbursement	74,948.89	69648
101	421100	Police Administration	HOLIDAY COMPANIES	Car Washes - Jan 2023	5.00	69649
101	415300	Administration & Finance	INNOVATIVE OFFICE SOLUTIONS, LLC	File/Pad	144.92	69650
101	431100	Street Department	KAMAN INDUSTRIAL TECHNOLOGIES	Bearing - H4 Sander	358.56	69651
101	416100	City Attorney	KENNEDY & GRAVEN, CHARTERED	HR Issue - PD - Dec 22	1,082.25	69652
101	421100	Police Administration	LEAGUE OF MINNESOTA CITIES	Peace Officer Training	1,440.00	69653
101	431100	Street Department	LITTLE FALLS MACHINE, INC.	Plow Valve - H0	247.75	69654
101	431100	Street Department	LITTLE FALLS MACHINE, INC.	Loader Relief Valve	151.16	69654
101	431100	Street Department	MENARD INC	Batteries	5.99	69655
101	431100	Street Department	MIDWEST MACHINERY CO, INC.	JD Tractor PTO Coupler	278.89	69656
101	431100	Street Department	MIDWEST MACHINERY CO, INC.	Snowblower Gear Case	1,396.25	69656
101	431100	Street Department	NAPA AUTO PARTS	PlastiDip Spray	14.88	69657
101	431100	Street Department	NAPA AUTO PARTS	Light Lens	20.18	69657
101	421100	Police Administration	NORTH COUNTRY CHEVROLET	2022 Chev Tahoe - SQD 11	31,546.52	69658
245	465100	HEDA	NORTHSPAN GROUP INC	MISC (Future COVID, Bus. Grant	1,546.88	69659
101	431100	Street Department	O'REILLY FIRST CALL	Radiator Test Kit	185.98	69660
101	431100	Street Department	O'REILLY FIRST CALL	Transfer Pump & Tank Repair Ki	75.23	69660
602	494500	Sewer Maintenance	PLAWCS	Excess Volume 1/01/22-12/31/22	2,063.63	69661
101	431100	Street Department	POMP'S TIRE SERVICE INC	Tires - H1	1,321.38	69662
101	424100	Building Inspection	SCHMINSKI, ADAM	Mileage to MN DLI Education	195.00	69663
101	424100	Building Inspection	SCHMINSKI, ADAM	Reimburse Uniform Allowance	569.95	69663
101	424100	Building Inspection	SCHMINSKI, ADAM	Phone Reimbursement May-Dec 22	200.00	69663
101	421100	Police Administration	SHRED-N-GO INC	Shredding Contract - Dec	109.08	69664
101	421100	Police Administration	STREICHER'S	Ammo	5,521.60	69665
101	421100	Police Administration	STREICHER'S	Uniform - Prouse	61.99	69665

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Fun d	Account	Department	Vendor Name	Description	Amount	Check #
101	415300	Administration & Finance	TASB, INC.	BoardBook Sub 01/01-08/31/23	1,333.50	69666
601	494400	Water Administration and General	TASB, INC.	BoardBook Sub 01/01-08/31/23	666.75	69666
602	494900	Sewer Administration and General	TASB, INC.	BoardBook Sub 01/01-08/31/23	666.75	69666
101	421100	Police Administration	TROY'S BP AMOCO INC	Oil & Filter	79.72	69667
101	431100	Street Department	ZIEGLER INC	Fuel Cap	45.14	69668
101	431100	Street Department	ZIEGLER INC	Oil	118.64	69668
101	134000	Retiree Insurance/Telephone Reimb.	MN LIFE	Feb Inactive - Volk	44.41	69669
101	134000	Retiree Insurance/Telephone Reimb.	MN LIFE	Feb Inactive - Rich	21.51	69669

Totals: 122 records printed

480,856.34



CITY COUNCIL MEETING DATE: February 21, 2023

TO: Mayor & City Council

FROM: John Mulder, City Administrator

SUBJECT: Resolution Approving Modifications to the Use of Body Worn Cameras Policy

RESOLUTION: 2023-19 **ORDINANCE:** **OTHER:**

REQUESTED ACTION

The Hermantown City Council is being asked to review and approve an updated Use of Body Worn Camera Policy.

BACKGROUND

The City of Hermantown began a body worn camera program for its police officers in the spring of 2022. On May 2, 2022, the Hermantown City Council adopted the Use of Body Worn Cameras policy after public comment. In the ensuing eight months, the City has been deploying body worn cameras and believes that the Body Worn Camera Policy should be updated to fit with the way body worn cameras are being used by the City. The City accepted public comment electronically and by mail on the revised policy and there will be an opportunity for the public to comment on the revised policy at the meeting where this resolution will be considered. The revised policy clarifies the guidelines for recording, the downloading evidence, and labeling of evidence.

SOURCE OF FUNDS (if applicable)

NA

ATTACHMENTS

Resolution
Revised Use of Body Worn Cameras Policy (Redline)

Resolution No. 2023-19

**RESOLUTION APPROVING MODIFICATIONS TO THE
USE OF BODY WORN CAMERAS POLICY**

WHEREAS, the City Council of the City of Hermantown (“City”) adopted the Use of Body Worn Cameras on May 2, 2022 (“2022 BWC Policy”) by Resolution No. 2022-58 after public comment; and

WHEREAS, the 2022 BWC Policy sets forth guidelines governing the use of body-worn cameras and the administration of the data that such body-worn cameras produce pursuant to the requirements of Minnesota Statutes § 626.8473, Subd. 3; and

WHEREAS, the Chief of Police desires to clarify and provide additional guidelines on the use of body-worn cameras and the management of the data produced to better serve the residents of the City; and

WHEREAS, the Chief of Police has submitted to the City Council of the City of Hermantown (“City”) a proposed amended Use of Body Worn Cameras Policy (“2023 BWC Policy”) attached hereto as Exhibit A; and

WHEREAS, the City took public comment on the proposed 2023 BWC Policy; and

WHEREAS, the City Council of the City of Hermantown has carefully reviewed the proposed 2023 BWC Policy and public comments and determined that it is in the best interests of the City of Hermantown to approve the 2023 BWC Policy.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hermantown, Minnesota, as follows:

1. The amended Use of Body Worn Cameras Policy attached hereto as Exhibit A is hereby approved.
2. The approved Use of Body Worn Cameras Policy will be posted on the Hermantown Police Department’s website.
3. There will be an independent, biannual audit of the body camera data to ensure that it is being properly classified, used and retained.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted February 21, 2023.

EXHIBIT A

Handbook for the City of Hermantown		
XX Policy	Procedure	
Date Adopted: 05-02-2022	Title: Use of Body Worn Cameras	Section: Emergency Services
Revision Dates: - 2023		Page: 1 of 12

Section 1. Purpose

The primary purpose of using body-worn-cameras (BWCs) is to capture evidence arising from police-citizen encounters. This policy sets forth guidelines governing the use of BWCs and administering the data that results. Compliance with these guidelines is mandatory, but it is recognized that officers must also attend to other primary duties and the safety of all concerned, sometimes in circumstances that are tense, uncertain, and rapidly evolving.

Section 2. Policy

It is the policy of this department to authorize and require the use of department issued BWCs as set forth below, and to administer BWC data as provided by law.

Section 3. Scope

This policy governs the use of BWCs in the course of official duties. It does not apply to the use of squad-based (dash-cam) recording systems. The chief or chief’s designee may supersede this policy by providing specific instructions for BWC use to individual officers, or providing specific instructions pertaining to particular events or classes of events, including but not limited to political rallies and demonstrations. The chief or designee may also provide specific instructions or standard operating procedures for BWC use to officers assigned to specialized details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities.

Section 4. Definitions

The following phrases and words have special meanings as used in this policy:

- 4.1. MGDPA or Data Practices Act refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.
- 4.2. Records Retention Schedule refers to the General Records Retention Schedule for the City of Hermantown.
- 4.3. Law enforcement-related information means information captured or available for capture by use of a BWC that has evidentiary value because it documents events with respect to a stop, arrest, search, citation, or charging decision.
- 4.4. Evidentiary value means that the information may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or in considering an allegation against a law enforcement agency or officer.

Handbook for the City of Hermantown		
XX Policy		Procedure
Date Adopted: -05-02-2022	Title: Use of Body Worn Cameras	Section: Emergency Services
Revision Dates: - -2023		Page: 2 of 12

- 4.5. General citizen contact means an informal encounter with a citizen that is not and does not become law enforcement-related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation. Examples include, but are not limited to, assisting a motorist with directions, summoning a wrecker, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.
- 4.6. Adversarial means a law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward the other, or at least one person directs toward the other verbal conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.
- 4.7. Unintentionally recorded footage is a video recording that results from an officer's inadvertence or neglect in operating the officer's BWC, provided that no portion of the resulting recording has evidentiary value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in station house locker rooms, restrooms, and recordings made while officers were engaged in conversations of a non-business, personal nature with the expectation that the conversation was not being recorded.
- 4.8. Official duties, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency.

Section 5. Use and Documentation

- 5.1. Officers may use only department issued BWCs in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department.
- 5.2. Officers who have been issued BWCs shall operate and use them consistent with this policy. Officers shall conduct a function test of their issued BWCs at the beginning of each shift to make sure the devices are operating properly. Officers noting a malfunction during testing or at any other time shall promptly report the malfunction to the officer's supervisor and shall document the report in writing. Supervisors shall take prompt action to address malfunctions and document the steps taken in writing.
- 5.3. Officers should wear their issued BWCs at the location on their body and in the manner specified in training.
- 5.4. Officers must document BWC use and non-use as follows:

Handbook for the City of Hermantown		
XX Policy	Procedure	
Date Adopted: -05-02-2022	Title: Use of Body Worn Cameras	Section: Emergency Services
Revision Dates: - -2023		Page: 3 of 12

- 5.4.1. Whenever an officer makes a recording, the existence of the recording shall be documented in an incident report or CAD record/other documentation of the event.
- 5.4.2. Whenever an officer fails to record an activity that is required to be recorded under this policy, or fails to record for the entire duration of the activity, the officer must document the circumstances and reasons for not recording in an incident report or CAD record/other documentation of the event. Supervisors shall review these reports and initiate any corrective action deemed necessary.
- 5.5. The department will maintain the following records and documents relating to BWC use, which are classified as public data:
 - 5.5.1. The total number of BWCs owned or maintained by the agency;
 - 5.5.2. A daily record of the total number of BWCs actually deployed and used by officers and, if applicable, the precincts in which they were used;
 - 5.5.3. The total amount of recorded BWC data collected and maintained; and
 - 5.5.4. This policy, together with the Records Retention Schedule.

Section 6. General Guidelines for Recording

- 6.1. Officers shall activate their BWCs when anticipating that they will be involved in, become involved in, or witness other officers of this agency involved in ~~a pursuit,~~ the following circumstances:
 - 6.1.1 Pursuits;
 - 6.1.2 Priority responses;
 - 6.1.3 Crimes in progress;
 - 6.1.4 Terry stop or other investigative stops of a motorist or pedestrian, search, seizure, arrest, use of motorists or pedestrians;
 - 6.1.5 Seizures or arrests;
 - 6.1.6 Searches;
 - 6.1.7 Use of force;

Handbook for the City of Hermantown		
XX Policy	Procedure	
Date Adopted: <u>-05-02-2022</u>	Title: Use of Body Worn Cameras	Section: Emergency Services
Revision Dates: <u>- -2023</u>		Page: 4 of 12

6.1.8 Adversarial contacts;

6.1.9 When ~~adversarial contact~~, ordered by a supervisor for proper purpose; or

6.1.10 During any situation or incident that the officer, through training and experience, believes should be audibly and/or visually preserved, unless such recording is otherwise prohibited.

~~6.1.6.2. Officers during other activities likely to yield information having evidentiary value. However, officers need not activate their ~~cameras~~ camera when it would be unsafe, impossible, or impractical to do so, but such instances of not recording when otherwise required must be documented as specified in the Use and Documentation guidelines. See Section 5.4.2. above.~~

~~6.2.6.3. Officers have discretion to record or not record general citizen contacts.~~

~~6.3.6.4. Officers have no affirmative duty to inform people that a BWC is being operated or that the individuals are being recorded.~~

~~6.4.6.5. Once activated, the BWC should continue recording until the conclusion of the incident or encounter, or until it becomes apparent that additional recording is unlikely to capture information having evidentiary value. The officer having charge of a scene shall likewise direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. If the recording is discontinued while an investigation, response, or incident is ongoing, officers shall state the reasons for ceasing the recording on camera before deactivating their BWC. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value.~~

~~6.5.6.6. Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy.~~

6.7. For all non-uniformed officers assigned a BWC, it's use will be at the officer's discretion, with the exception of any planned enforcement. For any planned enforcement, officers should follow the direction given within this policy.

~~6.6.6.8. Notwithstanding any other provision in this policy, officers shall not use their BWCs to record other agency personnel during non-enforcement related activities, such as during pre- and post-shift time in locker rooms, during meal breaks, or during other private conversations, unless recording is authorized as part of an administrative or criminal investigation.~~

Handbook for the City of Hermantown		
XX Policy	Procedure	
Date Adopted: -05-02-2022	Title: Use of Body Worn Cameras	Section: Emergency Services
Revision Dates: - -2023		Page: 5 of 12

Section 7. Special Guidelines for Recording

Officers may, in the exercise of sound discretion, determine:

- 7.1. To use their BWCs to record any police-citizen encounter if there is reason to believe the recording would potentially yield information having evidentiary value, unless such recording is otherwise expressly prohibited.
- 7.2. To use their BWCs to take recorded statements from persons believed to be victims of and witnesses to crimes, and persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect.

In addition,

- 7.3. Officers need not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. When responding to an apparent mental health crisis or event, BWCs shall be activated as necessary to document any use of force and the basis for it, and any other information having evidentiary value, but need not be activated when doing so would serve only to record symptoms or behaviors believed to be attributable to the mental health issue.
- 7.4. Officers should use their BWCs to record their transportation and the physical transfer of persons in their custody to hospitals, detox and mental health care facilities, juvenile detention centers, and jails, but otherwise should not record in these facilities unless the officer anticipates witnessing a criminal event or being involved in or witnessing an adversarial encounter or use-of-force incident.

Section 8. Downloading and Labeling Data

- 8.1. Each officer using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her camera to the Hermantown Police Department docking station by the end of that officer's shift. However, if the officer is involved in a shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or investigator shall take custody of the officer's BWC and assume responsibility for transferring the data from it.
- 8.2. Officers shall label the BWC data files at the time of capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling. Officers should assign as many of the following labels as are applicable to each file:

~~8.2.1. Evidence—criminal: The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision.~~

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~~Evidence—force:~~8.2.1. Arrest/Investigations: The event involves the physical arrest of an individual and/or the transport of an individual to jail. The video is part of a criminal investigation that the officer believes is necessary to retain.

8.2.2. Citation: The recording is of an event surrounding the issuance of a citation.

8.2.3. Warn/Advise: The recording is of an event surrounding the issuance of a written/verbal warning related to a traffic violation or other law enforcement related advisement.

8.2.4. Department: The recording is sensitive in nature or the officer believes it is important to save for future use. The recording may involve an adversarial encounter and/or a potential complaint against an officer or the department.

8.2.5. Interview: The recording is of an interview of a suspect, witness, or victim by an officer.

~~8.2.2.~~ 8.2.6. Use of Force: Whether or not enforcement action was taken, or an arrest resulted, the event involved the application of force by an officer of this agency of sufficient degree or under circumstances triggering a requirement for supervisory review.

~~8.2.3.~~ ~~Evidence—property:~~8.2.7. Property: Whether or not enforcement action was taken, or an arrest resulted, an officer seized property from an individual or directed an individual to dispossess property.

~~8.2.4.~~ ~~Evidence—administrative:~~ The incident involved an adversarial encounter or resulted in a complaint against the officer.

~~8.2.5.~~ ~~Evidence—other:~~ The recording has potential evidentiary value for reasons identified by the officer at the time of labeling.

~~8.2.6.~~ ~~Training:~~ The event was such that it may have value for training.

~~8.2.7.~~8.2.8. Not evidence~~Not Evidence:~~ The recording does not contain any of the foregoing categories of information and has no apparent evidentiary value. Recordings of general citizen contacts and unintentionally recorded footage are not evidence.

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~~8.3. In addition, officers shall flag each file as appropriate to indicate that it contains information about data subjects who may have rights under the MGDPA limiting disclosure of information about them. These individuals include:~~

~~8.3.1. Victims and alleged victims of criminal sexual conduct and sex trafficking.~~

~~8.3.2. Victims of child abuse or neglect.~~

~~8.3.3. Vulnerable adults who are victims of maltreatment.~~

~~8.3.4. Undercover officers.~~

~~8.3.5. Informants.~~

~~8.3.6. When the video is clearly offensive to common sensitivities.~~

~~8.3.7. Victims of and witnesses to crimes, if the victim or witness has requested not to be identified publicly.~~

~~8.3.8. Individuals who called 911, and services subscribers whose lines were used to place a call to the 911 system.~~

~~8.3.9. Mandated reporters.~~

~~8.3.10. Juvenile witnesses, if the nature of the event or activity justifies protecting the identity of the witness.~~

~~8.3.11. Juveniles who are or may be delinquent or engaged in criminal acts.~~

~~8.3.12. Individuals who make complaints about violations with respect to the use of real property.~~

~~8.3.13. Officers and employees who are the subject of a complaint related to the events captured on video.~~

~~8.3.14. Other individuals whose identities the officer believes may be legally protected from public disclosure.~~

~~8.4.8.3. Labeling and flagging~~ designations may be corrected or amended based on additional information.

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Section 9. Administering Access to BWC Data:

- 9.1. **Data subjects.** Under Minnesota law, the following are considered data subjects for purposes of administering access to BWC data:
- 9.1.1. Any person or entity whose image or voice is documented in the data.
 - 9.1.2. The officer who collected the data.
 - 9.1.3. Any other officer whose voice or image is documented in the data, regardless of whether that officer is or can be identified by the recording.
- 9.2. **BWC data is presumptively private.** BWC recordings are classified as private data about the data subjects unless there is a specific law that provides differently. As a result:
- 9.2.1. BWC data pertaining to people is presumed private, as is BWC data pertaining to businesses or other entities.
 - 9.2.2. Some BWC data is classified as confidential (*see* 9.2.3 below).
 - 9.2.3. Some BWC data is classified as public (*see* 9.2.4 below).
- 9.3. **Confidential data.** BWC data that is collected or created as part of an active criminal investigation is confidential. This classification takes precedence over the “private” classification listed above and the “public” classifications listed below.
- 9.4. **Public data.** The following BWC data is public:
- 9.4.1. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous.
 - 9.4.2. Data that documents the use of force by a peace officer that results in substantial bodily harm.
 - 9.4.3. Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any data subject (other than a peace officer) who has not consented to the public release must be redacted, if practicable. In addition, any data on undercover officers must be redacted.
 - 9.4.4. Data that documents the final disposition of a disciplinary action against a public employee.

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However, if another provision of the Data Practices Act classifies data as private or otherwise not public, the data retains that other classification. For instance, data that reveals protected identities under Minn. Stat. § 13.82, subd. 17 (e.g., certain victims, witnesses, and others) should not be released even if it would otherwise fit into one of the public categories listed above.

9.5. **Access to BWC data by non-employees.** Officers shall refer members of the media or public seeking access to BWC data to the responsible authority, who shall process the request in accordance with the MGDPA and other governing laws. In particular:

9.5.1. An individual shall be provided with access and allowed to review recorded BWC data about him- or herself and other data subjects in the recording, but access shall not be granted:

9.5.1.1. If the data was collected or created as part of an active investigation.

9.5.1.2. To portions of the data that the agency would otherwise be prohibited by law from disclosing to the person seeking access, such as portions that would reveal identities protected by Minn. Stat. § 13.82, subd. 17.

9.5.2. Unless the data is part of an active investigation, an individual data subject shall be provided with a copy of the recording upon request, but subject to the following guidelines on redaction:

9.5.2.1. Data on other individuals in the recording who do not consent to the release must be redacted.

9.5.2.2. Data that would identify undercover officers must be redacted.

9.5.2.3. Data on other officers who are not undercover, and who are on duty and engaged in the performance of official duties, may not be redacted.

9.6. **Access by peace officers and law enforcement employees.** No employee may have access to the department's BWC data except for legitimate law enforcement or data administration purposes:

9.6.1. Officers may access and view stored BWC video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. Officers may review video footage of an incident in which they were involved prior to preparing a report, giving a statement, or providing testimony about the incident.

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9.6.2. Agency personnel shall document their reasons for accessing stored BWC data in the manner provided within the database at the time of each access. Agency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC data recorded or maintained by this agency to public and social media websites.

9.6.3. Employees seeking access to BWC data for non-business reasons may make a request for it in the same manner as any member of the public.

9.7. **Other authorized disclosures of data.** Officers may display portions of BWC footage to witnesses as necessary for purposes of investigation as allowed by Minn. Stat. § 13.82, subd. 15, as may be amended from time to time. Officers should generally limit these displays in order to protect against the incidental disclosure of individual identities that are not public. Protecting against incidental disclosure could involve, for instance, showing only a portion of the video, showing only screen shots, muting the audio, or playing the audio but not displaying video. In addition,

9.7.1. BWC data may be shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of the disclosure.

9.7.2. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

Section 10. Data Security Safeguards

10.1. Personally owned devices, including but not limited to computers and mobile devices, shall not be programmed or used to access or view agency BWC data.

10.2. Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the chief or the chief’s designee.

10.3. As required by Minn. Stat. § 13.825, subd. 9, as may be amended from time to time, this agency shall obtain an independent biennial audit of its BWC program.

Section 11. Agency Use of Data

11.1. At least once a month, supervisors will randomly review BWC usage by each officer to whom a BWC is issued or available for use, to ensure compliance with this policy.

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11.2. In addition, supervisors and other assigned personnel may access BWC data for the purposes of reviewing or investigating a specific incident that has given rise to a complaint or concern about officer misconduct or performance.

11.3. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.

11.4. The BWC is not intended to be used for the purpose of surveillance of officers or initiating disciplinary action against an officer.

11.4.11.5. Officers should contact their supervisors to discuss retaining and using BWC footage for training purposes. Officer objections to preserving or using certain footage for training will be considered on a case-by-case basis. Field training officers may utilize BWC data with trainees for the purpose of providing coaching and feedback on the trainees' performance.

Section 12. Data Retention

12.1. All BWC data shall be retained for a minimum period of ninety (90) days. There are no exceptions for erroneously recorded or non-evidentiary data.

12.2. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous, must be maintained for a minimum period of one year.

12.3. Certain kinds of BWC data must be retained for six years:

12.3.1. Data that documents the use of deadly force by a peace officer, or force of a sufficient type or degree to require a use of force report or supervisory review.

12.3.2. Data documenting circumstances that have given rise to a formal complaint against an officer.

12.4. Other data having evidentiary value shall be retained for the period specified in the Records Retention Schedule. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable period.

12.5. Subject to Section 12.6 below, all other BWC footage that is classified as non-evidentiary, becomes classified as non-evidentiary, or is not maintained for training shall be destroyed after ninety (90) days.

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- 12.6. Upon written request by a BWC data subject, the agency shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to one hundred eighty (180) days. The agency will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.
- 12.7. The department shall maintain an inventory of BWC recordings having evidentiary value.
- 12.8. The department will post this policy, together with a link to its Records Retention Schedule, on its website.

Section 13. Compliance

Supervisors shall monitor for compliance with this policy. The unauthorized access to or disclosure of BWC data may constitute misconduct and subject individuals to disciplinary action and criminal penalties pursuant to Minn. Stat. § 13.09.



CITY COUNCIL MEETING DATE: February 21, 2023

TO: Mayor & City Council

FROM: John Mulder, City Administrator

SUBJECT: Citizen Complaint Policy and Procedures Regarding Officer Misconduct for the Hermantown Police Department

RESOLUTION: 2023-20 **ORDINANCE:** **OTHER:**

REQUESTED ACTION

The Hermantown City Council is being asked to review and approve updates to the Hermantown Police Department’s Citizen Complaint Policy.

BACKGROUND

The City of Hermantown adopted a Citizen Complaint Policy in October of 2004. Over the past 19 years, the state of the art for handling police complaints has changed substantially. The updated Citizen Complaint Policy includes the following:

- Expands how the department accepts complaints.
- Modernizes the procedures for investigating and handling citizen complaints.
- Clarifies citizen complaint classifications and processes.

SOURCE OF FUNDS (if applicable)

N/A

ATTACHMENTS

Resolution
Citizen Complaint Policy (Redline)

Resolution No. 2023-20

**RESOLUTION APPROVING MODIFICATIONS TO THE
CITIZEN COMPLAINT POLICY AND PROCEDURES REGARDING OFFICER MISCONDUCT
FOR THE HERMANTOWN POLICE DEPARTMENT**

WHEREAS, the City Council of the City of Hermantown (“City”) adopted the Citizen Complaint Policy and Procedures Regarding Officer Misconduct for the Hermantown Police Department on October 5, 2004 (“2004 Complaint Policy”) by Resolution No. 2004-121; and

WHEREAS, the 2004 Complaint Policy outlines the steps for the employees of the Hermantown Police Department (“Department”) and the general public to submit complaints or allegations against Department officers as well as the procedures governing the investigation and processing of such complaints or allegations; and

WHEREAS, the Chief of Police desires to clarify and modernize the language utilized in the 2004 Complaint Policy to better serve individuals desiring to report any allegation or complaint against a Department officer; and

WHEREAS, the Chief of Police has submitted to the City Council of the City of Hermantown (“City”) a proposed amended Citizen Complaint Policy and Procedures Regarding Officer Misconduct for the Hermantown Police Department (“2023 Complaint Policy”) attached hereto as Exhibit A; and

WHEREAS, the City Council of the City of Hermantown has carefully reviewed the proposed 2023 Complaint Policy and determined that it is in the best interests of the City of Hermantown to approve the 2023 Complaint Policy.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hermantown, Minnesota, as follows:

1. The amended Citizen Complaint Policy and Procedures Regarding Officer Misconduct for the Hermantown Police Department attached hereto as Exhibit A is hereby approved.
2. The approved Citizen Complaint Policy and Procedures Regarding Officer Misconduct for the Hermantown Police Department will be posted on the Hermantown Police Department’s website.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted February 21, 2023.

EXHIBIT A

<u>HERMANTOWN POLICE DEPARTMENT</u>		
<u>GENERAL ORDER</u>		
<u>Policy – Resolution 2023-</u>	<u>Procedure</u>	
<u>Date Adopted: 10-05-2004</u>	<u>Title: Citizen Complaint Policy</u>	<u>Section:</u>
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1. PURPOSE.

The ~~8-30-04~~

~~CITIZEN COMPLAINT Purpose~~ ~~POLICY AND~~ of this Policy is to provide all Hermantown Police Department (“Department”) employees, and the public, the procedures for reporting, accepting, processing, and investigating allegations of officer misconduct or citizen complaints. This Policy defines provisions applicable only to the receipt, processing of complaints, and the disposition of allegations of administrative misconduct. This Policy does not apply to a criminal investigation.

PROCEDURES

REGARDING OFFICER MISCONDUCT
FOR THE HERMANTOWN POLICE DEPARTMENT

1. ~~POLICY~~

- 1.1 ~~A relationship of trust and confidence between members of the Hermantown Police (“Department”) and the community they serve is essential for effective law enforcement. Law Enforcement officers must be free to exercise their best judgment and to initiate enforcement action in a lawful and impartial manner without fear of reprisal. At the same time, they must meticulously respect and preserve individual rights.~~
- 1.2 ~~This complaint procedure is intended to provide corrective action when a department member conducts himself/herself improperly, and to protect him/her from unwarranted criticism when he/she discharges his/her duties properly.~~
- 1.3 ~~Any person who believes that a law enforcement act is improper is encouraged to bring the complaint to the department’s attention.~~
- 1.4 ~~The department will make every effort to insure that no adverse consequences occur to any person or witness who brings a complaint or provides information in any investigation of a complaint.~~

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~~2. Complaints shall be handled in a prompt, just, open and expeditious manner in accordance with these procedures. Summaries of the complaint process, and copies~~POLICY

~~5.1~~ The Department’s public image is determined, in part, by a professional response to allegations of misconduct against its employees. The establishment of procedures for the acceptance of complaints is crucial to demonstrate and protect the Department’s integrity. The Department shall accept, and fairly, and impartially investigate, all complaints or allegations of misconduct to determine their validity. The Department shall timely impose any disciplinary or non-disciplinary corrective actions that may be warranted in a timely and consistent manner. All complaints against the Department and/or employee conduct shall be accepted and documented regardless of whether the filed complaint is in writing, verbally in person, by mail, by telephone, by facsimile or electronically, or anonymously.

~~1.5~~ ~~The~~ of these policies and procedures shall be made available to the public upon request.

Chief Law Enforcement Officer shall be responsible for the investigation of all allegations of serious misconduct and serious use of force incidents pursuant to Department policies and procedures. The Chief will have the authority to utilize resources outside the department to conduct investigations including retaining outside investigators.

~~2.~~ **DEFINITION OF TERMS**

~~3.~~ For the purpose of these Citizen complaint policies and procedures, the terms ~~defined~~set forth below have the following meanings:

~~3.1.~~ Administrative Investigation means an internal investigation conducted in response to a complaint with the goal of determining whether an employee engaged in misconduct.

~~2.13.2.~~ Chief Law Enforcement Officer means the Chief of Police of the Hermantown Police Department as from time to time appointed by the City Council. Within this Policy, the Chief Law Enforcement Officer will be referred to as CLEO.

~~2.23.3.~~ City Administrator means the City Administrator of the City of Hermantown as appointed from time to time or if there is not City Administrator then employed by the City, such person as the City Council shall designate to perform the duties of the City Administrator under these policies and procedures.

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2.33.4. Complainant means ~~the~~any person ~~or group of persons~~ who ~~file/~~files a complaint ~~alleging~~
~~misconduct by a member of the~~ regarding the conduct of any Department: employee, or
the Department’s policies, procedures, or actions.

2.43.5. Complaint means ~~a statement~~an allegation by a person regarding the Department’s
services, policy or procedure, officer misconduct, claims for damages ~~which is made in~~
~~writing which alleges~~allege officer misconduct ~~by an officer or employee, and any~~
allegation of possible misconduct of the Department: officer.

3.6. Complaint Control Number A sequential number used to identify and track citizen
complaint investigations.

2.53.7. Department ~~shall mean~~means the Hermantown Police Department.

3.8. Discipline means any of the following or combination thereof:

3.8.1. Oral Reprimand

3.8.2. Written Reprimand

3.8.3. Suspension

3.8.4. Demotion

3.8.5. Discharge

2.63.9. Exonerated means a preponderance of the evidence established either that:

~~26.1 — the act, or acts, complained of did not occur;~~

~~26.23.9.1.~~ the ~~the~~ Department member(s) named in the complaint ~~were~~was not
involved in the alleged misconduct; or
that

~~26.33.9.2.~~ the act(s) ~~which~~that provided the basis for the complaint occurred;
however, the investigation ~~reveals~~revealed that such act(s) were justified, lawful;
~~and or~~ proper; or.

3.10. External Complaint means a complaint that ~~such act(s) do not adversely reflect upon~~
~~the~~ originates from outside the department.

3.11. Internal Complaint means a complaint that originates from within the Department. Such
complaints may be initiated by other Department employees or ~~the member’s ability from~~

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supervisors who observed, or were informed by other employees, of possible policy violations.

3.12. Internal Affairs Division (IAD) means the designated Bureau with primary responsibility for conducting investigations of Administrative or Citizen Complaints of Misconduct.

26.43.13. Law Enforcement Officer means an individual who holds a peace officer license in the State of Minnesota. Within this Policy, a law enforcement officer will be referred to perform hi/her duties within the departmentas CLEO.

2.73.14. Infraction means violation of any Department policy and procedure defining transgressions that are not major violations.

2.83.15. Major Violation means:

2.8.13.15.1. any criminal offense;

2.8.23.15.2. the use of unnecessary or excessive force;

2.8.33.15.3. abuse of authority;

2.8.43.15.4. conduct which violates a person’s civil rights;

3.15.5. abusive or insulting language or conduct which is derogatory of a person’s race, religion, sex, national origin, or sexual preference; and

2.8.5

2.8.63.15.6. intimidation of or recrimination toward a complainant or witness involved in any complaint proceeding.

2.93.16. Member means all peace officers and civilian Department employees whether full-time, part-time, or temporary.

3.17. Misconduct means ~~any infraction or major~~;

3.17.1. a violation ~~committed by a member which adversely reflects upon~~of the Department’s policy or procedure governing conduct of Department ~~or the member’s ability to perform his/her duties within the Department~~members; and

2.103.17.2. conduct by a peace officer that would be a violation of POST Standards of Conduct set forth in Minn. Rules 6700.1600.

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~~2.113.18.~~ Not Sustained means the investigation failed to disclose sufficient evidence to prove or disprove the allegation(s) made in the complaint.

~~2.123.19.~~ Operating Policies and Procedures shall mean the written manual containing the operating policies and procedures of and for administrative rules adopted by the Department. regulating the conduct of Department members.

~~2.13~~ Policies and Procedures shall mean the written manual containing the Operating Policies and Procedures.

~~3.20.~~ Policy Failure means that the complaint revealed a policy failure. The allegation is factual, and the CLEO(s) followed proper Department procedure, however, that procedure has proven to be deficient.

~~3.21.~~ Receiving Authority means the entity who receives and is required to investigate the complaint when the subject of the complaint is the CLEO.

~~3.22.~~ Respondent means an individual who is the subject of a complaint investigation.

~~3.23.~~ Rules of Conduct means the Rules of Conduct for the Department.

~~2.143.24.~~ Supervisor means those holding the rank of Sergeant, Commander, and Chief.

~~2.153.25.~~ Sustained means a preponderance of the evidence obtained in the investigation clearly establishes that the accused member's actions constituted misconduct.

~~3.26.~~ Unfounded means there is no factual basis for the allegation or the act(s) alleged did not occur.

~~3.~~ PROCEDURES ~~PROCEDURE FOR INITIATING COMPLAINT~~

~~3.1~~ Anyone, other than a Member of the Department, who has personal knowledge of the facts giving rise to the complaint or has reliable hearsay information may file a written complaint within fifteen days of the occurrence of the facts giving rise to this complaint or within fifteen days of knowledge of the occurrence of the facts giving rise to this complaint but in no event more than one year after the occurrence of the facts giving rise to this complaint. Any Department Member who has personal knowledge of misconduct may file a written complaint according to these procedures.

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~~4. All written complaints alleging a violation of the Rules of Conduct shall be filed with the City Administrator and the Chief. If the Complaint involves the Chief, the Complaint shall be filed only with the City Administrator~~

4.1. Acceptance and Filing of Complaints.

~~4.1.1. Complaint forms will be made available through Department personnel, at the Department and on the Department’s webpage.~~

~~4.1.2. Complaints may be received either in person, over the telephone, in writing, or via the internet. A complainant may remain anonymous. The complainant should be advised that remaining anonymous may affect the investigation of the complaint.~~

~~3.24.1.3. A complainant=~~

~~3.34.1.4. Subject to the Minnesota Data Practices Act, a Complainant may be accompanied by an attorney or other appropriate representative at the time a complaint is filed or at any other stage of the process.~~

~~4. PROCEDURE FOR INVESTIGATION OF THE COMPLAINT~~

~~4.1.5. 4.1 Upon receipt Department employees will provide assistance to individuals who express the desire to lodge complaints against any employee of the Department.~~

~~4.1.6. The complainant will be advised of the procedures for submitting a complaint and provided with a copy of their submitted complaint.~~

~~4.1.7. The complainant will be asked to verify by signature that the complaint is complete and accurate. If the complainant elects not to sign the complaint, that fact will be documented and the complaint processed according to Department procedure.~~

~~4.1.8. The CLEO will forward a copy of the written complaint to the respondent only after it is determined that the complaint does not allege a criminal violation and the notification will not impede a criminal investigation.~~

~~4.1.9. The CLEO or Receiving Authority may delegate the duties and responsibilities required of the CLEO by this Policy to an appropriate designee(s).~~

~~4.1.10. Any, the Chief, or if the complaint made against the CLEO shall be made to the City Administrator.~~

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4.1.11. The City Administrator must refer investigations of alleged misconduct against the CLEO to an outside law enforcement agency or criminal justice agency that does not have a conflict of interest.

4.1.12. Upon receipt of a complaint, it shall be forwarded to the CLEO and Patrol Commander. The Patrol Commander will log the complaint and assign a tracking number.

4.2. **Investigation of a Complaint** involves the Chief, the City Administrator shall,

4.2.1. All investigations shall, to the extent reasonably possible, determine whether the officer’s conduct was justified. No investigation being conducted by the CLEO shall be closed simply because a subject or complainant is unavailable, unwilling, or unable to cooperate, including a refusal to provide medical records or proof of injury.

4.2.2. The CLEO will make an initial determination as to whether the facts alleged warrant a formal investigation. In making this determination, the Chief, or if the Complaint involves the Chief, the City Administrator may meet informally with the Complainant, accused member or any potential witness. If the Chief, or if the Complaint involves the Chief, the City Administrator require an administrative investigation. If the CLEO decides that a formal an investigation is not warranted required, the Chief or disposition of the City Administrator complaint must be cleared as the case may be shall notify the officer and the “unfounded”, “not sustained”, or “exonerated.” The complainant of such and the respondent will be notified of this decision and the basis for determination. If the complainant supplies additional information within thirty (30) days of that initial determination and no further action shall be taken. , the CLEO may reverse the initial determination and order an administrative investigation.

4.2 — If the Chief, or if the Complaint involves the Chief, the City Administrator CLEO determines that a formal an administrative investigation should be conducted is required, the complaint shall will be further investigated reviewed by the Chief or the City Administrator, as the case may be, or shall be referred to such other person or agency as determined by the Chief or City Administrator, as the case may be. Patrol Commander and classified in its proper category for assignment. An appropriate designee will then be assigned to investigate

4.34.2.3. The Chief or the City Administrator or other person referred the complaint under Section 4.2 hereby shall proceed as follows.;

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4.3.14.2.4. The investigation may be assigned to ~~a Member of the Department other than a civilian employee of the Department or to~~ an external agency, that has no discernible conflict of interest, where there is ~~the~~ potential for criminal charges resulting from the investigation, or in any other situation where the ~~Chief or the City Administrator, as the case may be,~~ CLEO or Receiving Authority believes ~~that~~ an external investigation is appropriate.

4.3.24.2.5. All investigations shall be conducted by a supervisor who did not ~~authorize, witness, or participate in the incident.~~ The investigator ~~shall,~~ must ~~inform the complainant of his or her name, business phone number and the status of the complaint~~ as soon as possible after being assigned the investigation, ~~inform the Complainant and the accused, unless the Complaint alleges a criminal violation and notification will impede a criminal investigation,~~ of his/her name, business phone number and the status of the Complaint.

4.3.34.2.6. The investigator ~~shall~~ must thoroughly investigate all allegations contained in the complaint and any other potential misconduct discovered in the course of the investigation. ~~If the investigation uncovers~~ reveals potential misconduct by another Department member, the investigator ~~shall initiate~~ must report that fact to the CLEO or, in the case of a complaint against ~~that member~~ the CLEO, the City Administrator.

4.2.7. ~~Subject to constitutional protections provided by Gardner v. Broderick and Garrity v. New Jersey, all~~ The supervisor will not close an investigation because ~~the complaint is withdrawn, the alleged victim is unwilling or unable to provide medical records or proof of injury, or the complainant will not provide additional medical statements or written statements.~~

4.2.8. The supervisor will consider whether any rule, policy, or procedure of the Department was violated.

4.2.9. All Department members, ~~including the accused member,~~ shall ~~must~~ cooperate with the investigation. ~~If participation in~~ When the respondent is a licensed peace officer, the investigation ~~could result~~ will comply with the requirements of the Police Officer Discipline Procedures Act, Minn. Stat. § 626.89.

4.3. Complaint Categories.

4.3.1. The following chart depicts the types of complaints, which are defined by the seriousness of the allegation, along with whom the complaint is generally investigated and reviewed by:

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<u>TYPES</u>	<u>DESCRIPTION</u>	<u>EXAMPLES</u>	<u>GENERALLY HANDLED BY</u>
<u>CLASS 1</u>	<u>Allegations that have the potential to damage the reputation of the Department or its personnel, and generally include, but not limited to, allegations of serious misconduct, serious violations of Standards of Conduct and other written directives, or criminal conduct.</u>	<ul style="list-style-type: none"> • <u>Excessive and/or improper use of force</u> • <u>Brutality</u> • <u>False Arrest</u> • <u>Unlawful search and/or seizure</u> • <u>Corruption</u> • <u>Dishonesty and untruthfulness</u> • <u>Gross Insubordination</u> • <u>Violation of Civil Rights</u> • <u>Bias-based profiling</u> • <u>Sexual Harassment</u> • <u>Workplace Violence</u> • <u>Violation of Criminal Statutes</u> 	<u>The CLEO</u> <u>Formal and documented with written statements and tape/video recorded interviews</u> <u>CRIMINAL INVESTIGATION DIVISION AND/OR OUTSIDE AGENCY INCLUDING PRIVATE INVESTIGATOR</u>
<u>CLASS 2</u>	<u>Allegations that generally include, but are not limited to, allegations of a non-serious nature and violations of Standards of Conduct and other written directives of a non-serious nature.</u>	<ul style="list-style-type: none"> • <u>Violation of policies, procedures or rules, other than those which constitute a Class 1 Allegation</u> • <u>Inappropriate conduct and/or behavior of a less-serious nature, such as rudeness, discourtesy, and offensive language</u> • <u>Violation of personnel rules</u> 	<u>CLEO AND/OR INTERNAL AFFAIRS UNIT</u> <u>Formal and documented with written statements</u>
<u>CLASS 3</u>	<u>Minor complaints by a citizen desiring to make an informal complaint against an employee, generally involving an employee's conduct and/or behavior.</u>	<u>When a citizen complains about the behavior of an employee, such as rudeness or demeanor, but does not wish to file an official formal complaint.</u>	<u>FIRST-LINE SUPERVISOR</u> <u>Informal and documented as Informational Purposes Only</u>
<u>CLASS 4</u>	<u>Minor complaints by a citizen who contacts the Department questioning or informally complaining about a policy, procedure, or tactic used by the Department or an employee.</u>	<u>When a citizen questions or complains about the procedures or tactics used by the Department or employee, such as on-scene command presence, or why handcuffs were used when detaining a subject, but does not wish to file an official formal complaint.</u>	<u>FIRST-LINE SUPERVISOR</u> <u>Informal and documented as Informational Purposes Only</u>

4.3.1.1. Serious Misconduct. Serious misconduct is understood by the Department to mean suspected criminal misconduct and the following misconduct:

4.3.1.1.1. All civil suits alleging any misconduct by an officer while acting in an official capacity;

4.3.1.1.2. All civil suits against an officer for off-duty conduct (while not acting in thean official capacity) alleging physical

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violence, threats of physical violence, racial bias, dishonesty, or fraud;

4.3.1.1.3. All criminal arrests or filing of criminal charges against an officer;

4.3.1.1.4. All allegations of unlawful discrimination (e.g., on the basis of race, ethnicity, gender, religion, national origin, sexual orientation, or disability), including improper ethnic remarks and gender bias, but excluding employment discrimination;

4.3.1.1.5. All allegations of an unlawful search and seizure;

4.3.1.1.6. All allegations of false arrests or filing of false charges;

4.3.1.1.7. Any act of retaliation or retribution against an officer or person;

4.3.1.1.8. Any act of retaliation or retribution against a person for filing a complaint against a member;

4.3.1.1.9. All allegations of excessive use of force or improper threat of force (including strikes, blows, kicks, or other similar uses of force against a compliant subject or administered with a punitive purpose);

4.3.1.1.10. Any failure to complete use of force reports required by Department policies and procedures;

4.3.1.1.11. The providing of false or incomplete information during the course of a Department investigation, or in any report, log, or similar document;

4.3.1.1.12. All incidents in which: (1) a person is charged by an officer with assault on an officer or resisting arrest or disorderly conduct, and (2) the County Attorney’s Office notifies the Department that it is dismissing the charge based upon officer credibility, or a judge dismissed the charge based upon officer credibility; and/or

4.3.1.1.13. All incidents in which Department has received written notification from the Attorney General in a criminal case that there has been: (1) an order suppressing evidence because of

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any constitutional violation involving potential misconduct by an officer, or (2) any other judicial finding of officer misconduct made in the course of a judicial proceeding, or any request by a federal judge, local judge, or magistrate that a misconduct investigation be initiated pursuant to some information developed during a judicial proceeding before a judge or magistrate. Department shall request that all such entities provide them with written notification whenever it has been determined that any of the above had occurred.

4.4. Investigative Interviews and Procedures of Officers.

4.4.1. Prior to being interviewed, the officer against whom a complaint has been made shall be advised of the nature of the complaint.

4.4.2. All interviews will be conducted while the officer is on duty, unless the seriousness of the investigation or other justifiable reason is such that an immediate interview is required.

4.4.3. During interviews there will be designated one primary interviewer.

4.4.4. The complete interview shall be electronically recorded.

4.4.4.5. The officer shall be provided with the name, rank, and command of all persons present during questioning.

4.4.6. Subject to ~~incriminating himself or herself with respect to potential future~~ approval of the CLEO, officers will be administered the applicable Warnings prior to interview:

4.4.6.1. Garrity Warnings: For compelled statements if the inquiry is administrative.

4.4.6.2. Miranda Warnings: Where the inquiry is criminal and the officer is under arrest or in custody.

4.4.7. Officers may have a union representation during the internal review.

4.4.7.1. Officers, under internal (administrative) review, may have present a union representative with them during any administrative internal investigative interrogation so long as the representative is not involved in any manner

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(i.e. a witness or subject of the complaint) with the incident under investigation, or a conflict of interest does not exist.

4.4.7.2. The representative’s role is primarily that of an observer and shall not be permitted to interrupt the interview except for the purpose of advising and/or conferring with the officer who is concerned about a contractual right.

4.4.7.3. In criminal investigations or proceedings, the so-called Garrity Warning shall be given. employee has the right to talk to legal counsel or to have one present during questioning.

4.4.8. Examinations and Searches

4.4.8.1. The ~~determination~~Department may direct that the officer undergo an intoxicimeter, blood, urine, psychological, polygraph, medical examination, or whether a Garrity Warning any other exam not prohibited by law, if it is believed that such an examination is pertinent to the investigation, so long as they do not violate law, or any CBA.

4.4.8.2. An on-duty supervisor may direct an officer to submit to a breath, blood, or urine test when there is reasonable suspicion that alcohol and/or drug usage is suspected as the factor directly related to allegations of misconduct, and is required to submit to such tests as the result of either being involved in a traffic accident with a department vehicle or involved in a discharge or a firearm on or off-duty.

4.4.8.3. Desks, lockers, storage space, rooms, offices, equipment, information systems, work areas, and vehicles are the property of the City of Hermantown and are subject to inspection. They may also be searched to retrieve City of Hermantown owned property, or to discover evidence of work-related misconduct, if there is reason to suspect, such evidence is contained therein.

4.4.8.4. Private property can be stored in areas mentioned above; however, employees will not expect privacy in those areas. Only those employees who are acting in their official capacity may be authorized to be given by the search or inspect areas assigned to other employees.

4.5. Investigative Report.

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~~4.3.4—The investigator (thus compelling a member to participate) or not is to be determined by the Chief or the City Administrator, as the case may be.~~

~~4.3.5.4.5.1. The investigator shall will prepare a report which shall contain that contains all relevant information, organized into the following three following(3) sections:~~

~~4.5.1.1. 4.3.5.1 Allegations—This section shall consist of an: An itemized summary of the acts of misconduct alleged in the complaint. -Reference shallwill be made to those rules, procedures, orders, statutes, or constitutional provisions that would be violated if the allegations are taken as true.~~

~~4.5.1.2. 4.3.5.2 Investigation—This section shall consist of a: A chronological summary of the investigation, including all pertinent facts obtained through interviews with the complainant, accused Department member(s), and all available witnesses. —Written statements, descriptiondescriptions and analysis of any physical evidence, and all other relevant information shallwill be included.~~

~~4.5.1.3. 4.3.5.3 Conclusion(s) — This section shall include the investigatorsConclusions: The investigator’s findings and conclusions determiningas to whether any misconduct occurred, and the underlying reasons for the findings and conclusions.—These conclusions shall not be binding~~

~~4.5.2. Documentation of the name and badge number of all officers involved in, or on the Chief or scene during, the City Administrator, as incident, and a canvass of the case may be. scene to identify civilian witnesses;~~

~~4.5.3. Thorough and complete interviews of all witnesses, subject to the Department’s Garrity protocol, and an effort to resolve material inconsistencies between witness statements;~~

~~4.5.4. Photographs of the subject(s) and officer(s) injuries or alleged injuries; and~~

~~4.5.5. Documentation of any medical care provided.~~

~~4.5.6. The investigation shallwill be concludedcompleted within thirty (30) days of the date that filing of the complaint unless the CLEO or Receiving Authority~~

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determines there is good cause to grant an extension. The complainant and respondent will be informed of any extension.

4.6. Employee Responsibility to Report Misconduct.

4.6.1. An employee will report any instances of employee misconduct as soon as practicable following receipt of information regarding the misconduct.

4.6.2. In applicable circumstances, employees are to prevent the deterioration or destruction of any evidence that would support or refute the allegation of misconduct.

4.7. Confidentiality of Complaints.

4.7.1. All employees who have knowledge that a complaint has been submitted, or will likely occur, are prohibited from discussing material issues related to the matter.

~~4.3-64.7.2.~~ Exemptions include employees subject to the investigation is ordered when consulting with union or legal representation, in accordance with supervisory directives, testifying at an official hearing regarding the matter, or otherwise authorized by the Chief or City Administrator, as the case may be, unless for good cause, an extension is granted by the Chief of City Administrator, as the case may be. The Complainant shall be informed of any extension of time and the accused member shall also be informed if he/she was informed of the Complaint law, policy, or regulation.

4.8. Additional Investigation, Review and Disposition.

4.8.1. Upon completion of the investigation, the investigator shall will submit his/her the report, the case file and all investigative notes to the CLEO or Receiving Authority. The CLEO or Receiving Authority may require additional investigation notes to the Chief or the City Administrator, as the case may be. If the Chief or the City Administrator, as the case may be, determines the investigation was not adequate, it may reorder the investigation. If the Chief or the City Administrator, as the case may be, determines that the investigation was adequate, the Chief or the City Administrator, as the case may be, shall or make one of the following dispositions: decisions:

4.8.1.1. Unfounded

4.8.1.2. Exonerated,

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4.8.1.3. Not Sustained-~~or~~

4.3.74.8.1.4. Sustained-

4.8.1.5. Policy Failure

4.3.84.8.2. ~~The Chief~~CLEO or the ~~City Administrator, as the case~~Receiving Authority may ~~be, may withhold~~ issuing~~postpone making a disposition~~decision until any related criminal charges are resolved. ~~The complainant shall be and respondent are~~ informed of this decision ~~and the accused shall also be informed if he/she was informed of the Complaint.~~

4.3.94.8.3. If the ~~complaint~~decision is either ~~“unfounded,” “exonerated or,” “not sustained, the Chief or the City Administrator, as the case may be, shall” or “policy failure”~~ the CLEO or Receiving Authority will immediately notify the complainant and the ~~accused member~~respondent of the disposition~~decision~~.

~~5~~ DISCIPLINARY ACTION

~~5.2~~ If a complaint is sustained the Chief, or if the complaint involves the Chief, the City Administrator shall determine the appropriate disciplinary action to be taken. The disciplinary action may include, but is not limited to, any or all of the following:

~~4.8.4. Counseling~~ If the complaint is “sustained” the CLEO or Receiving Authority will:

~~Issue findings of fact including a Suspension w/ or w/out pay~~
~~Continuing Education/ Suspension without pay~~

~~Training~~

~~4.8.5. Oral reprimand Demotion~~

~~4.8.6. Written reprimand Discharge~~

Nothing in this section shall require that if any discipline be taken that the discipline be progressive. In addition, nothing in this Section alters or affects any rights any member has under any collective bargaining agreement.

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5.3 — After selecting appropriate disciplinary action, the Chief, or if the Complaint involves the Chief, the City Administrator will issue a Findings of Fact which shall minimally contain the following information:

~~5.3.14.8.6.1.~~ 5.3.14.8.6.1. ~~A~~ summary of the ~~act or~~ acts constituting misconduct and the specific statutes, policies, regulations and procedures violated;

~~5.3.24.8.6.2.~~ 5.3.24.8.6.2. ~~A description of the~~ Take appropriate remedial and/or disciplinary action ~~or continuing education;~~ and

~~5.3.34.8.6.3.~~ 5.3.34.8.6.3. ~~Any additional~~ Advise the complainant of any public information as the Chief, or if the Complaint involves the Chief, the City Administrator may find appropriate to accurately document regarding the disposition.

~~5.44.8.7.~~ 5.44.8.7. Prior to the implementation of ~~counseling,~~ counseling, ~~educational,~~ educational, ~~training~~ remedial and/or disciplinary ~~actions,~~ action the ~~accused member shall~~ respondent is provided with a copy of the ~~Findings~~ findings of Fact. ~~fact.~~ The Chief, or if the ~~complaint involve~~ the Chief, the City Administrator ~~shall~~ CLEO, Receiving Authority and/or designee will review ~~it~~ the findings of fact with the ~~accused member~~ respondent and explain the reasons for the remedial and/or disciplinary action.

4.8.8. Subject to the Minnesota Data Practices Act, the complainant shall also be given a copy of the Findings of Fact The investigation may be re-opened by the CLEO or Receiving Authority at any time if substantial new evidence is discovered concerning the complaint.

4.8.9. When a “sustained” disposition is final, the respondent may appeal the disposition pursuant to the rules and law governing the accused member’s employment.

4.8.10. The Patrol Commander shall have the following additional responsibilities:

4.8.10.1. Maintain a complaint log;

4.8.10.2. Maintain a central file for complaints in a secured area, and in conformity with records retention requirements of law; (personnel files located in City Hall)

4.8.10.3. Conduct a regular audit of complaints to ascertain the need for changes in training or policy;

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4.8.10.4. Regular review to identify trends involving all complaints of use of force, officer misconduct, and/or abuse of authority;

4.8.10.5. Track complaints against individual employees to assist in employee risk analysis and Early Intervention Program (EIP); and

4.8.10.6. Provide the Police Chief, managers, and/or supervisors with quarterly summaries of complaints and final dispositions against officers.

~~5.5~~ Maintenance and

~~5.6~~ The accused member may appeal the imposition of any discipline according to the member’s collective bargaining agreement or if applicable, through the Veteran’s Preference Act.

~~5.7~~ The Chief, or if the Complaint involves the Chief, the City Administrator may suspend an accused member with pay at any time during the investigation of a complaint.

~~5.8~~ These procedures shall not preclude other disciplinary procedures for misconduct not initiated by a citizen complaint.

~~6~~ MAINTENANCE AND DISCLOSURE OF DATA

~~4.9.~~ Disclosure of Data.

~~6.14.9.1.~~ Disclosure to the public, complainant, accused member or the public and respondent of data collected, created, or received or maintained by the Department in connection with this policy and procedure shall be governed by the provisions of the Minnesota Government Data Practices Act. Retention of data collected or maintained in connection with this Policy is retained in accordance with the Department’s “Record Retention Schedule.”

~~6.24.9.2.~~ All data collected, created or received by the department in connection with this policy and procedure shall be maintained in accordance with the Department’s “Record Retention Schedule.”

~~4.9.3.~~ The placement of the disposition report or other data in an employee’s personnel file shall be governed by applicable collective bargaining agreements and/or the Department’s personnel policy.

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4.9.4. Access to data collected, created, or received in connection with this Policy and procedure may only be authorized by the CLEO or the Department’s Data Practices “Responsible Authority,” and as provided by Chapter 13, the “Minnesota Government Data Practices Act,” or valid court order.

4.10. POST Board Reporting Requirements.

4.10.1. Under Minn. Rule 6700.1610, a licensed peace officer will self-report to the POST Board any violations of the Standards of Conduct for peace officers listed in Minn. Rule 6700.1600.

4.10.2. Any person with knowledge of peace officer misconduct constituting grounds for action under Minn. Stat. Chapter 214, or Minn. Rules 6700.1600, may report the violation to the POST Board.

4.10.3. Minnesota Stat. 626.8457 Subd. 3 requires CLEOs to submit individual peace officer public and private data related to allegations of misconduct to the POST Board in “real time” via the POST Board Misconduct Reporting System.

4.10.4. The CLEO will update data within thirty (30) days of final disposition of a complaint or investigation.

4.10.5. Law enforcement agencies and political subdivisions are prohibited from entering into a confidentiality agreement that would prevent disclosure of the data identified in Minn. Stat. § 626.8457, Subd. 3, paragraph (b) to the POST Board. Any such confidentiality agreement is void as to the requirements of this section.

5. TRAINING.

~~6.35.1.~~ The Department will continue to provide training to all officers on the citizen complaint process and the appropriate responses in handling citizen complaints, as developed and administered by the Investigative Commander.

Resolution No. 2023-xx

RESOLUTION AUTHORIZING AND DIRECTING MAYOR AND CITY CLERK TO EXECUTE AN ACCEPTANCE OF EASEMENT AGREEMENT TO THE CITY OF HERMANTOWN FROM GORDON S. HALVERSON

WHEREAS, the City of Hermantown (“City”) desires to construct improvements to a portion of Lindahl Road in the City of Hermantown known as the Lindahl Road Bridge Removal Project (“Project”); and

WHEREAS, the City needs to obtain an easement (“Easement”) from Gordon S. Halverson (“Halverson”) to construct the Project and Halverson has executed and delivered the required Easement to the City; and

WHEREAS, the City is authorized to acquire the Easements pursuant to Minnesota Statutes Section 412.211 of the Minnesota Statutes; and

WHEREAS, the City Council of the City of Hermantown has considered this matter and believes that it is in the best interests of the City of Hermantown to accept the Easement and provide consideration to Halverson in connection with such acceptance.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hermantown, Minnesota as follows:

1. The Mayor and City Clerk are hereby authorized and directed to execute and deliver the Acceptance of the Easement.

2. That compensation in the amount of Five Hundred and No/100 Dollars (\$500.00) be provided to Halverson in consideration of the acceptance of the Easement

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

And the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted February 21, 2023.

EXHIBIT A

PERMANENT EASEMENT AGREEMENT

[TOP THREE INCHES RESERVED FOR RECORDING DATA]

THIS INDENTURE is made and entered into this ____ day of _____, 2023, between **Gordon S. Halverson**, a single person, (“Grantor”) and **City of Hermantown**, a Minnesota municipal corporation, (“Grantee”) in response to the following situation:

- A. Grantor is the owner of real property located in St. Louis County, Minnesota, and legally on Exhibit A attached hereto (the “Property”).
- B. Grantee desires to construct improvements to the roadbed and utilities (“Project”).
- C. Grantor has agreed to provide a permanent easement (“Permanent Easement”) for public purposes on the Property, within the Permanent Easement area legally described and depicted on Exhibit B attached hereto.

NOW, THEREFORE, in consideration of mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The Recitals are included as a part hereof.
2. Grantor grants Grantee the Permanent Easement for public purposes, including, but not limited to, a public roadway and public utilities, under, and across the property owned by Grantor, with said Easement being generally shown on the drawing attached hereto as Exhibit A together with the right to enter upon and occupy so much of such property as may be necessary in constructing, repairing or otherwise maintaining any public roadway and public utilities located thereon.

3. Grantee shall have the right to assign or encumber the Permanent Easement in whole or in part and as to all or any portion of the rights accruing hereunder, subject always to the terms of this Agreement.

4. The Permanent Easement shall be perpetual and the Permanent Easement shall run with the land and shall be binding upon the heirs, successors and assigns of the parties.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the said Grantor has caused this instrument to be executed on the day and year first above written.

Gordon S. Halverson

STATE OF MINNESOTA)
)ss.
COUNTY OF ST. LOUIS)

This instrument was acknowledged before me on this _____ day of _____, 2023, by Gordon S. Halverson, a single person.

Notary Public

[ACCEPTANCE APPEARS ON NEXT PAGE]

ACCEPTANCE

The City of Hermantown hereby accepts the foregoing easement.

Dated: _____

CITY OF HERMANTOWN

By _____
Its Mayor

And By _____
Its City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by Wayne Boucher and Jackie Dolentz, the Mayor and City Clerk, respectively, of the City of Hermantown and on behalf of the City of Hermantown.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:
Gunnar B. Johnson
Overrom Law
802 Garfield Avenue
Suite 101
Duluth, MN 55802
218-625-8463

EXHIBIT A
Legal Description

East 1/2 of SE 1/4 of NE 1/4, Section 32, Township 50 North, Range 15 West of the Fourth Principal Meridian EXCEPT the Northerly 350 feet, St. Louis County, Minnesota.

TORRENS PROPERTY
Certificate of Title No. 328534

EXHIBIT B Permanent Easement

