

CITY OF ROSEMOUNT

POLICY TITLE:                   **STORMWATER REBATE PROGRAM**

EFFECTIVE DATE:               **MARCH 17, 2020**

POLICY NUMBER:

PROPOSED BY:                   **PUBLIC WORKS**

DATE APPROVED  
BY COUNCIL:                   **MARCH 17, 2020**

DATE AMENDED  
BY COUNCIL:

PURPOSE

The purpose of this policy is to lay out general guidelines for the fair distribution of a stormwater utility rebate to residents, businesses, and organizations that install projects and practices voluntarily on their property that improve stormwater quality or reduce stormwater volume. The standards laid out in this policy are meant to ensure that projects are successful and functional. A rebate program to encourage installation of stormwater improvement projects on private property will have the following overall benefits to the City as a whole:

- Improved water quality in local waterbodies
- Reduced likelihood of flooding
- Groundwater recharge
- Normalization of yard care practices that are beneficial to water quality
- Improved neighborhood aesthetics
- Improved pollinator habitat
- Compliance with NPDES MS4 Permit public education and participation requirements

For the purpose of this Policy, the following definitions are utilized:

**Applicant** – A resident, business, or organization that applies for the rebate program

**Best management practice (BMP)** – A project that removes pollutants from stormwater or reduces stormwater runoff volume. Examples include raingardens, rain barrels, and buffers.

**Buffer** – A native planting adjacent to a waterbody

**Businesses** – All properties included in the Commercial or Industrial zoning classification

**Cistern** – A large tank, generally more than 200 gallons in size, used for storing harvested rainwater

**Critical Root Zone** – The roots contained within the dripline of a tree canopy.

**Cultivar** – A plant variety that has been produced in cultivation by selective breeding. For example, a gardener or horticulturalist may select plants with longer bloom time, a different flower color, shorter height, or double bloom. Cultivar names have described words or phrases in quotes following the plant species name: Purple Coneflower ‘Butterfly Kisses’, Big Bluestem ‘Red October’, Joe-Pye Weed ‘Baby Joe’, etc. While being developed, cultivars may have lost some of the beneficial water quality and pollinator habitat traits that the original native plant species is known for.

**Drinking Water Supply Management Area (DWSMA)** – A mapped area of land managed as part of a wellhead protection plan to protect drinking water sources

**Easements** – A portion of a privately-owned property with restricted uses that the City or other entity (primarily utility companies) maintains restricted rights of use and access over. Easements will be visible on a plat for a property. A common example is drainage and utility easements that are available to allow for the flow and storage of stormwater and access to repair City infrastructure (e.g. underground sewer pipes).

**Emergency Response Area (ERA)** – The area within an aquifer (groundwater layer) within a 1-year time of travel to a public water supply well

**Filtration** – The process whereby stormwater passes through a filter, such as soil or sand, for the purpose of removing pollutants from stormwater, but does not soak into the ground and become groundwater

**Home owners’ associations** – Single or multi-family housing developments governed by an association

**Infiltration** – The process whereby stormwater soaks into the ground and becomes groundwater

**in/filtration or in/filtrate** – shorthand for “infiltration or filtration”

**Invasive plants** – Plants that are not native to Minnesota and cause economic or environmental harm or harm to human health

**Native garden or native planting** – A garden or large planted area where all vegetation is native plants

**Native plant** – A plant that is of a species that could historically be found growing in Minnesota prior to European settlement, is not a cultivar, and whose original plant propagation source (e.g. seed) is within 200 miles (300 miles for trees and shrubs)

**Ordinary High Water Elevation (OHW)** – An elevation set by the Minnesota Department of Natural Resources below which Public Waters regulations apply. The OHW only applies to Public Waters.

**Organizations** – all properties included in the Institutional zoning classification

**Pesticide** – Chemicals used to kill a pest, whether an animal, plant, fungus, etc. Pesticides include herbicides, insecticides, fungicides, and algicides.

**Preemergent pesticides** – Herbicides that prevent seeds from germinating.

**Pretreatment** – Practices used to reduce pollutants in stormwater before it enters a BMP. Most typically, pretreatment is installed on infiltration BMPs to prevent clogging by sediment if the source of runoff contains sediment. Pretreatment practices can also remove trash and oils and grease.

**Rain barrel** – A small barrel, usually ranging in size from 50 – 200 gallons in size, used for storing harvested rainwater

**Raingarden** – A garden built in a shallow depression that collects and in/filtrates stormwater within 24 hours. Raingardens are typically 3-12” deep and are planted with vegetation that can withstand periodic short-term inundation. Raingardens are dry most of the time.

**Rainwater harvesting** – The process by which rainwater is collected, typically from rooftops, and stored for later use. Rainwater harvesting is different than stormwater reuse in that stormwater reuse typically requires a higher level of treatment to collected water to allow for safe use of the collected water. Rain barrels and cisterns are common methods by which harvested rainwater is stored.

**Regulation** – Any ordinance, rule, plan, contract, agreement, policy, or specification that regulates activity within the City of Rosemount

**Residents** – All properties included in the Residential or Agricultural zoning classification

**Reuse or stormwater reuse** – The process by which stormwater is collected and stored for later use. Stormwater reuse is different than rainwater harvesting in that it typically requires a higher level of treatment to the collected water to allow for safe use. Underground cisterns, underground detention galleries, and stormwater ponds are common methods by which stormwater is stored in a stormwater reuse system.

**Right-of-way or rights-of-way** – an easement or area owned by the City or other government entity designated to allow for transportation or movement of people. Rights-of-way typically include streets, sidewalks, trails, and boulevard areas.

**Stormwater or stormwater runoff or runoff** – Water from rain or snowmelt that has run or flowed over the ground or impervious surfaces such as roads and sidewalks

**SWCD** – the Dakota County Soil and Water Conservation District. Please note, this organization is distinct from Dakota County.

## POLICY

### ELIGIBILITY

The rebate program will provide financial reimbursement, in the form of a stormwater utility fee rebate, to stormwater utility rate payers that install stormwater best management practices on their property within the City of Rosemount. Typical projects that will qualify for reimbursement include native gardens, raingardens, buffers, and rainwater harvesting. The following eligibility requirement must be met by all applicants unless otherwise approved by the Director of Public Works/City Engineer:

- Projects must use infiltration, filtration, or volume control to treat or reduce runoff.

- The projects must not be required as a result of an enforcement action resulting from a violation of rule, law, ordinance, permit, or contract. This applies to both City regulations and regulations by other government entities, such as the State of Minnesota.
- Projects must not be required for the purpose of meeting minimum stormwater requirements as part of a permit or other regulatory approval. Projects that go beyond minimum requirements may be eligible on those portions of the project that go beyond minimum requirements.

### PROJECT STANDARDS

The following conditions apply to all projects

- Projects must comply with City regulations
- Projects must not increase erosion, have a negative impact on water quality, have a negative impact on groundwater, damage adjoining property, create a safety or fire hazard, or create a public nuisance
- Projects must comply with standards listed in the Minnesota Stormwater Manual, City Specifications, and the Dakota County Low Impact Development Standards
- Unless otherwise approved by the Director of Public Works/City Engineer, projects shall not be located within rights-of-way or easements. The City discourages the installation of BMPs in rights-of-way and easements.
- Projects must be located in such a manner as to not hinder access to public infrastructure
- Unless otherwise stated in this document or otherwise approved by the Director of Public Works/City Engineer, projects must not be located above an underground utility. The City also reserves the right to decline funding for projects that occur below overhead utilities in some cases.
- Projects must have a water quality benefit
- Site preparation and installation methods shall not cause compaction unless required to support structures and approved by the Director of Public Works/City Engineer.
- Projects that require the approval of the Director of Public Works/City Engineer will require a maintenance agreement and/or encroachment agreement. Agreements will range from 10 years to in-perpetuity, depending on the nature of the project. Some agreements may have to be recorded on the property. All projects requiring a maintenance or encroachment agreement must submit an application and be approved before the project is installed. Some projects requiring a maintenance or encroachment agreement will require regular inspections by City staff during construction.
- Projects shall not remove or damage to the point of mortality healthy, mature, native, non-hazardous, non-nuisance trees for the purpose of installing voluntary stormwater BMPs. The exceptions are for trees that are causing damage to or endangering structures, infrastructure, or safety; trees that are interfering with infrastructure maintenance access; or ash trees. Mature trees include trees with a diameter 4' above the ground of 6 inches or greater.

### **Rain Barrels**

- Must be at least 45 gallons in size to receive funding

- Must be winterized or removed from service in the winter
- Must have an emergency overflow that directs water away from house foundations
- Must be installed and maintained in such a manner that they do not interfere with neighborhood aesthetics; visual screening may be required in some special cases
- Must provide adequate screening of the stored water to reduce the likelihood of mosquito breeding and keep large debris out
- Must be installed, operated, and maintained in such a manner as to reasonably be expected to prevent injury or damage to people, animals, or structures. The system must be able to withstand the forces that can reasonably be expected to be exerted on it, be level, not be prone to tipping, and adequately provide for protections from drowning (provide reasonable safety measures to prevent living things from crawling or falling inside the barrel). In some cases, anchoring to adjacent structures will be required to prevent tipping.
- Must be used for non-potable uses only
- Collected rainwater must not be stored in and cannot run over a surface that has a high potential to leach toxic materials. Examples include shingles that contain asbestos or roofs treated with pesticides.
- Barrels must be watertight

### **Cisterns & Rainwater Harvesting**

- Must meet all the requirements of a rain barrel listed above
- Must be at least 200 gallons in size
- Must be installed in such a manner as to allow adequate inspection and maintenance access
- Must meet Minnesota Plumbing and Building Code and provide backflow protection for systems integrated into potable plumbing systems or interior to buildings
- Underground storage systems must be able to withstand the forces exerted on them. For example, systems located under parking areas need to be able to withstand the weight load associated with the level of traffic.
- Underground tanks must not be located below the water table
- Must provide adequate treatment of the stored water for the specified use

### **Raingardens**

- Raingardens shall be designed and function as infiltration BMPs unless otherwise specified to function as a filter in this policy
- Raingardens shall be free of linings that prevent infiltration into underlying soils unless a filtration practice is deemed necessary by the City
- The planted area of the raingarden shall be covered with 3-4 inches of shredded hardwood mulch
- Side slopes within raingardens shall not exceed 3(horizontal):1(vertical) or shall provide an adequate slope retaining system as approved by the City

- Raingardens shall be installed no closer than 15 feet from full basement foundations, 10 feet from half basements, or 5 feet from slab-on-grade foundations. These setback distances may apply to other underground structures at the City's discretion.
- Raingardens shall be installed a minimum of 3 feet from the curb and gutter or outer shoulder edges of paved streets if there is no curb and gutter. Raingardens shall be installed a minimum of 10 feet back from the outer shoulder edge of unpaved roads.
- Raingardens must have a stabilized outlet.
- Raingarden base must be at least 3 feet higher than seasonally high-water table elevation unless converted from an infiltration system to a filter system
- Adequate pretreatment based on the source of stormwater entering the raingarden must be provided. Pretreatment is typically not required for raingardens that receive roof runoff and in typical residential applications that don't receive runoff from the street.
- Fertilizers and pre-emergent pesticides shall not be used in either the construction or maintenance of raingardens
- Raingardens must convert from an infiltration to filtration BMP in the following circumstances:
  - If the garden is receiving runoff from a vehicle fueling or maintenance area
  - Commercial, institutional, industrial, or agricultural zoned properties where high levels of contaminants in the soil can be mobilized by infiltrating water
  - Commercial, institutional, industrial, or agricultural zoned properties where amended soil infiltration rates are greater than 8.3 inches per hour
  - Commercial, institutional, industrial, or agricultural zoned properties within the ERA within the high or very high vulnerability DWSMA
  - Commercial, institutional, industrial, or agricultural zoned properties within the ERA within the moderate vulnerability DWSMA unless otherwise approved by the Director of Public Works/City Engineer
  - Commercial, institutional, industrial, or agricultural zoned properties within the high or very high vulnerability DWSMA and outside of the ERA unless otherwise approved by the Director of Public Works/City Engineer
  - Areas that receive runoff from automobile salvage yards; scrap recycling and waste recycling facilities; or hazardous waste treatment, storage, or disposal facilities
  - Areas 1000 feet upgradient or 100 feet downgradient of active karst features
- Raingardens must be kept free of invasive plants
- Raingardens shall have edging. The edging shall be installed such that it doesn't hinder the ability of stormwater to enter the garden.
- Raingarden depth shall be at least 3" deep and no more than 18" deep
- Raingardens must infiltrate or filter all captured water within 24 hours

- Raingardens shall not damage the critical root zone of healthy, mature, native, non-hazardous, non-nuisance trees such that the tree is mortally wounded.

### **Native Plantings**

- Shall be at least 100 square feet in size
- Only native plants shall be planted in native gardens. Cultivars of native plants will not be accepted. Native gardens can be installed adjacent to an existing garden that has nonnative plants.
- Shall be kept free of invasive plants
- Shall be situated such that they treat stormwater from impervious surfaces
- Native planting may be located over underground utilities if space constraints exist on the property, no shrubs are used in the planting, no trees are used in the planting, the property owner is willing to enter into a 10 year maintenance agreement for the project, no known capital improvement projects are planned for the utility for the next 10 years, no grade changes will occur as a result of the project, no obstructions to access or maintenance are placed in the project, and the project has received preapproval from the Director of Public Works/City engineer. The affected utility shall not be held responsible for any damages to the project in the course of maintaining or operating the utility.
- Native plantings shall be installed a minimum of 3 feet from the curb and gutter or outer shoulder edges of paved streets if there is no curb and gutter. Native plantings shall be installed a minimum of 10 feet back from the outer shoulder edge of unpaved roads.
- Native plantings shall be free of linings that prevent infiltration into underlying soils
- The planted area of the native planting shall be covered with 3-4 inches of shredded hardwood mulch unless the planting has been established by a seed mix. If the planting is established by a seed mix, temporary erosion controls (e.g. erosion control blanket, cover crops, etc.) shall be installed during establishment.
- Fertilizers and pre-emergent pesticides shall not be used in either the construction or maintenance of native gardens
- Native plantings shall have edging. The edging shall be installed such that it doesn't hinder the ability of stormwater to enter the garden. Very large native plantings may use boundary markers every 50' rather than edging. Forest understory plantings following buckthorn or other invasive understory plant removal are not subject to the requirement for edging or markers.
- The native planning cannot be a preexisting natural feature

### **Buffers**

- Any project that involves work occurring below the OHW of a Public Water, including planting below the OHW, must contact the MnDNR to determine if permits are required for the project
- Only native plants shall be planted in buffers. Cultivars of native plants will not be accepted.
- Only portions of buffers that are wider than what is required by any government regulation or agreement are eligible for this program

- Buffers must extend at least an average of 16.5' landward from the waterbody. Buffers must extend at least 15' along the shoreline.
- Hard armoring practices, such as riprap or retaining walls, are not eligible
- Shall be kept free of invasive plants.
- No shrubs or trees shall be planted over underground utilities. The affected utility shall not be held responsible for any damages to the project in the course of maintaining or operating the utility.
- Adequate erosion and sediment control must be installed throughout the life of the project. Generally, this means that an erosion control blanket adequate to the establishment time and slope will be required at the beginning of the project. In some cases, coconut fiber logs will be required to protect the waters edge from forces exerted on it by the water.
- Buffers shall have edging; or, buffers shall have boundary markers no less than every 50 feet and at every major buffer boundary directional change. Edging shall be installed such that it doesn't hinder the ability of stormwater to enter the buffer. Forest understory plantings following buckthorn or other invasive understory plant removal are not subject to the requirement for edging or markers.
- The buffer cannot be a preexisting natural feature
- Shall be free of linings that prevent infiltration into underlying soils
- Fertilizers and pre-emergent pesticides shall not be used in either the construction or maintenance of buffers
- Fill shall not be installed in buffers without prior written approval by the Director of Public Works/City Engineer
- Shall include goose or other wildlife exclusion measures if warranted by conditions in the adjacent waterbody.

### **Stormwater Reuse**

- Shall meet all the requirements for cisterns and rainwater harvesting
- Projects whose water source is a natural waterbody, such as lakes and wetlands, shall not be eligible for this program
- Shall be subject to watering restrictions
- Shall be approved by the Director of Public Works/City Engineer

### **Permeable Pavers & Pavements**

- Shall be approved by the Director of Public Works/City Engineer
- Permeable pavers and pavements are not allowed in the following circumstances:
  - If the area is receiving runoff from a vehicle fueling or maintenance area
  - Commercial, institutional, industrial, or agricultural zoned properties where high levels of contaminants in the soil can be mobilized by infiltrating water
  - Commercial, institutional, industrial, or agricultural zoned properties where amended soil infiltration rates are greater than 8.3 inches per hour
  - Properties within the ERA within the high or very high vulnerability DWSMA
  - Properties within the ERA within the moderate vulnerability DWSMA unless otherwise approved by the Director of Public Works/City Engineer

- Commercial, institutional, industrial, or agricultural zoned properties within the high or very high vulnerability DWSMA and outside of the ERA unless otherwise approved by the Director of Public Works/City Engineer
- Areas that receive runoff from automobile salvage yards; scrap recycling and waste recycling facilities; or hazardous waste treatment, storage, or disposal facilities
  - Areas 1000 feet upgradient or 100 feet downgradient of active karst features
- Must be able to withstand the forces exerted on them. Systems need to be able to withstand the weight load associated with the level of traffic.
- The reservoir layer must be at least 3 feet higher than seasonally high-water table
- Shall be designed to draw down within 48 hours
- Shall comply with recommendations of the Minnesota Stormwater Manual
- Shall be designed and operated to reduce the chance of clogging and pollution to underlying groundwater
- Shall have adequate protections in place to prevent water intrusions into basements and underground structures
- Shall have pretreatment adequate for the source of the stormwater entering the pavement

### **Other Projects**

- May be accepted on a case-by-case basis and must be approved by the Director of Public Works/City Engineer
- Must adhere to standard engineering practices
- For proprietary products, installation and maintenance must follow manufacturer's guidelines

## **PROCEDURE**

### **APPLICATION PROCESS**

Requests to receive the rebate must be submitted in writing on a form developed by the City with required attachments and supporting information for consideration. The City is under no obligation to approve an application nor to provide the rebate.

Projects that require submission of an application and pre-approval before the project has been started include the following:

- Projects proposed to be located in easements and rights-of-way
- Projects located over underground utilities
- Projects that require a permit
- Projects that propose compacting soils or the subgrade as part of the project
- Projects that require a maintenance or encroachment agreement
- Proposed infiltration raingardens located in the ERA and moderate vulnerability DWSMA located on commercial, institutional, industrial, or agricultural zoned properties
- Proposed infiltration raingardens located in the high or very high vulnerability DWSMA located on commercial, institutional, industrial, or agricultural zoned properties

- Buffer projects that propose to add fill
- Stormwater reuse projects
- Permeable paver and pavement projects
- Projects that are not a rain barrel, cistern, rainwater harvesting, raingarden, native planting, or buffer
- Native plantings located in an easement

Projects requiring a maintenance or encroachment agreement must have a fully-executed agreement prior to approval and installation of the project. A pre-project site inspection by city staff or representatives will be required.

Any project that is not required to submit an application for pre-approval can still be submitted for review prior to installation. An optional preinstallation review can help troubleshoot common design and installation mistakes. Most preinstallation reviews will include a visit to the location of the proposed project to verify site conditions. It is highly recommended that all projects on commercial, agricultural, industrial, and institutional zoned lands submit projects for preinstallation review.

The deadline for application is October 1 each year. Applications submitted after October 1 will be considered the following year and be subject to that year's budget.

Pre-approval of a project or a preinstallation review shall not guarantee a rebate. Issuance of a rebate shall be based on whether inspection of the completed project confirms compliance with this policy and any maintenance or encroachment agreements associated with the project.

#### PROJECT ACCEPTANCE AND DISBURSEMENT OF REBATE

The applicant will be required to submit receipts for project expenses for review. Upon completion of the project, submission of a complete application, and submission of receipts, the city will visit the project to confirm installation in accordance with this policy; the city will make a reasonable effort to contact the property owner with regards to when inspection will occur. Any project requiring a maintenance or encroachment agreement must have an executed agreement prior to project acceptance. Buffer projects that plant below the OHW of a Public Water will be required to submit a copy of the MnDNR permit or approval to do so. Projects that use seed to establish a vegetated BMP will not be eligible for reimbursement until perennial vegetation has become established; this could take more than a year for some projects and does not include the establishment of a cover crop for erosion prevention purposes. Projects that use seed to establish a vegetated BMP will also be required to provide information on seed vendor, seed mix, and seed tags.

Projects will only receive rebates if funding remains in the program budget for the year. Qualifying, complete projects will receive rebate on a first come first served basis.

Rebates for projects that are funded will show up as a credit on the next city utility bill. The quarterly stormwater utility fee will be smaller than the rebate in most cases. As such, any excess rebate will be carried over to the next bill until the entire rebate credit has been claimed.

Projects must remain in place, with the exception of rain barrels, for no less than 5 years or a longer time if specified in a maintenance or encroachment agreement. The project will be subject to City

inspection to confirm the BMP has remained in place and functional during that timeframe. The City will make a reasonable effort to contact the property owner prior to any inspection. Removal of the BMP before the end of that timeframe or refusal to allow City inspection shall result in the cost of the rebate received being charged back to the property owner in their utility bill.

#### QUALIFYING EXPENSES

The City will only provide rebates for expenses that are specific to the function of the BMP: plants in the BMP, equipment rental, mulch, edging, compost, etc.

The following expenses shall not qualify for reimbursement:

- Unpaid labor, including labor performed by the property owner, volunteers, and their immediate relatives or dependents
- Hard armoring (e.g. riprap) of shorelines
- Materials whose only function is decorative: decorative rock, stepping stones, decorative fencing, boulders, etc.

The City shall set a maximum reimbursement/rebate amount (i.e. cost cap) for the following materials annually:

- Edging
- Trees
- Shrubs
- Dry riverbeds
- Splash blocks
- Retaining walls
- Downspout redirection

#### REBATE RATES

Rebate credits shall be earned at the following rates:

- No project shall receive a reimbursement that exceeds 50% of total qualifying expenses
- Projects may still qualify for rebate if they receive grants or cost share or reimbursement or other financial assistance through another program offered from another government organization or nonprofit. However, all combined financial assistance, including this rebate, shall not exceed total qualifying expenses for the project. In other words, the property owner shall not be allowed to make a monetary profit from installation of the project.
- Each property can only receive one (1) rebate per year and rebates cannot be combined
- Each property can only receive a maximum of four (4) rain barrel or cistern rebates over the time that a same property owner owns the property
- Any individual can only receive a maximum of four (4) rain barrel or cistern rebates ever.
- The City shall annually set a maximum rebate award for projects. The maximum rebate award will vary for different project types. The City may also adjust the maximum rebate award based on size of practice and water quality benefit provided.

#### MAINTENANCE REQUIRED

Maintenance is required. Projects shall be maintained for a period of no less than 5 years. Some projects will have a longer maintenance period as established through agreement with the City.

During the maintenance period, the City shall have the right to enter the property to confirm that BMPs are being maintained. The city shall make a reasonable effort to inform the property owner prior to inspection. Some BMPs will require submission of an annual inspection report by a qualified professional if established through an agreement with the city.

The following items shall be included in any applicable maintenance agreement:

- Planted BMPs shall remain free of invasive plants
- Native vegetation shall remain native
- Planted BMPs shall remain vegetated
- Pesticides shall not be used in vegetated BMPs except for selective application to nonnative pests
- Pesticide used in buffers shall be appropriate for use near water
- Fertilizers shall not be used in vegetated BMPs
- Snow shall not be stored on in/filtration BMPs
- Winter sand application shall not be used on permeable pavers or pavements
- An approved snow and ice control plan that limits deicers shall be required for permeable pavers and pavements. Individuals and organizations performing winter maintenance shall have MPCA Smart Salting certification, and certification shall remain current.
- Permeable pavers and pavements shall be vacuumed or regenerative air swept twice per year at minimum: once in spring and once in fall. Vacuum or regenerative air sweepers shall not use brushes. Power washing and vacuuming will be performed on any clogged areas that remain after sweeping. Void spaces in paver systems shall be refilled by permeable aggregates or sands as needed following sweeping, vacuuming, or power washing operations.
- Materials shall not be stored temporarily on in/filtration BMPs that have the potential to clog or compact the BMP
- An approved pretreatment maintenance program appropriate for the location and pretreatment BMP installed for projects requiring a maintenance agreement
- The size and capacity of the BMP shall not be reduced during the maintenance term
- The City shall have the right to inspect
- Annual inspection and maintenance reports by a qualified individual submitted by the grant recipient to the City during the maintenance term for projects requiring a maintenance agreement. Issues found in the annual report shall be repaired within three (3) months unless a longer time period is approved by the city.