



**CITY COUNCIL
WORK SESSION MEETING AGENDA
May 3, 2021
5:30 – 6:30pm**

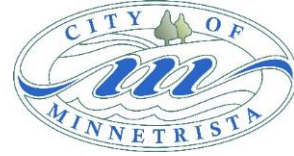
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- 1) **Call to Order**
- 2) **Nuisance Ordinance Discussion**
- 3) **Adjourn**

CITY OF MINNETRISTA
WORK SESSION DISCUSSION ITEM



Subject: Nuisance Ordinance Update

To: Mayor and City Council

From: Andrew Biggerstaff, assistant city attorney
Ron Batty, city attorney

Meeting Date: March 15, 2021

At a recent work session on March 1, 2021, the city council directed staff to prepare an update to the city's nuisance ordinance. We have reviewed the existing city code and have prepared a draft amendment to replace that section of the city code. A copy of the current code section, the new draft section, and a memorandum on enforcement options (previously shared) is included in the packet for tonight's discussion. Because our proposal involves completely replacing the existing code section we were not able to prepare a redline showing the proposed changes, but the two sections can be compared to understand the changes being proposed.

In reviewing the existing city code section on nuisances, we noted that it was missing a few critical pieces. For example, the list of identified nuisance conditions contained in the existing code is somewhat limited by modern standards. Additionally, the existing code lacks a meaningful procedural mechanism for addressing nuisance conditions while observing applicable due process requirements. Based on those observations, we've prepared an updated draft based on the nuisance ordinance adopted by the Medina city council in 2009, with some modifications to address issues specific to Minnetrista. It is also worth noting that this ordinance tracks closely to the League of Minnesota Cities model nuisance ordinance, again with some city-specific modifications.

Notably, the draft ordinance includes a relatively long list of conditions which may constitute nuisance conditions in Sections 1510.01 and 1510.05, respectively. The goal of these sections is to provide adequate notice to residents regarding the applicable community standards and to illustrate what types of conditions are permitted in the city. The draft ordinance also provides that other issues which are identified elsewhere as being nuisances, but which are not also expressly listed here, will be considered nuisances for purposes of enforcement.

Mission Statement:

The City of Minnetrista will deliver quality services in a cost effective and innovative manner and provide opportunities for a high quality of life while protecting natural resources and maintaining a rural character.
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The draft ordinance also provides a more meaningful enforcement mechanism than the existing code section. To summarize the process, upon determination that a public nuisance exists the city staff will notify the owner of record or occupant of the condition and order that the condition be abated. If the owner or occupant fails to comply, the matter would move to the city council for review and, if concluding that the condition constitutes a nuisance, a further abatement order. If the owner or occupant continues to fail to address the situation, the city may be able to take steps to abate the nuisance condition.

It is important to remember at this stage that while the code provides authority to abate, there will still be times where the city may wish to obtain a court order before undertaking abatement activities. This is particularly true where the abatement is large and potentially costly, as obtaining a court order beforehand would help protect the city from a claim that its actions were inappropriate or that it should otherwise be liable for removing valuable personal property. Whether seeking a court order is desirable will be a case-by-case determination.

Finally, the draft ordinance provides some cost-recovery mechanisms. Notably, it allows the city to assess any unpaid abatement costs to the property taxes.

We believe that this ordinance draft will provide the city with more flexibility in the long term to address nuisance conditions. Because nuisances are based on community standards, and because community standards may change over time, it is reasonable to revisit these rules from time to time to make sure that the regulations adequately reflect the community's current standards.

It is also worth noting that adoption of this ordinance will not necessarily change the way that the city addresses nuisance conditions. Many cities typically rely on a complaint-based enforcement method, and even then, must make decisions about which issues to address and in which order. Adoption of an updated nuisance ordinance will provide the tools necessary to address these issues, but the city council will ultimately retain its discretion to determine which conditions require city action.

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MEMORANDUM

**To: Honorable Mayor and City Council
Mike Barone, city administrator**

From: Andrew Biggerstaff, assistant city attorney

Date: January 11, 2018

Re: Code Compliance/Enforcement Options

This memorandum seeks to outline potential options that the Minnetrista City Council (the “City”) may want to consider with respect to those properties which are not compliant with the City’s code. The City has recently received complaints about non-compliance related to at least one property located within the City. While some of these options may be available to address that property, these options may also be generally available for addressing issues raised by other properties as well.

Questions have been raised about the prospect of the City adopting an ordinance to address problem properties. Generally speaking, the City already has ordinances which prohibit certain types of nuisance activity. The real question relates to how the City can enforce those ordinances. That enforcement question will be equally prevalent with respect to any new ordinances that the City seeks to craft in response to specific concerns.

It is also worth a general comment that code compliance issues are regularly addressed by city councils throughout Minnesota. Typically, the less urbanized a locale, the more prevalent issues with code compliance and enforcement become. Each code enforcement action is a unique undertaking, and the preferred approach will largely be driven by specific facts related to the ongoing activity or violation. At the heart of code compliance activity is the right of property owners to use their property in a reasonable manner, and because of that, there is no general panacea which will address every possible issue that may arise.

What is included below highlights several civil enforcement options that the City may choose to consider. Also included are estimates related to the potential cost, in legal fees, for undertaking such efforts. Again, because each situation is unique, these estimates may differ significantly, depending on a number of factors. This memorandum also does not seek to address the criminal options which may be available to the City. While each violation of the code is typically considered a misdemeanor, prosecution of such violations is often burdensome and reserved for the most egregious cases.

1. Nuisance Abatement Proceeding

a) *Public Nuisance.* Public nuisances are those situations which affect a considerable number of people to the extent that they violate public rights and produce a common or general injury. State law provides a process for seeking an injunction and/or abatement of public nuisances. The City has also adopted an ordinance which prohibits public nuisances, and which offers abatement authority.¹ Additionally, many city ordinances create criminal liability for maintaining public nuisances. However, given the higher threshold for proving criminal offenses and the potential remedy if a public nuisance is proved, such provisions are not regularly invoked when the desire is to have the problem cleaned up.

Under state law, the City is able to seek an injunction which requires the property owner to cease the hazardous condition. State law defines what constitutes a public nuisance.² Such definition includes reference to things that are made illegal by city ordinance, which creates a fairly broad net that the City can use. However, caution must be exercised in defining the nuisance because it must fit within the statutory criteria or risk the injunction being denied by a court.

Under the City's code, there are also provisions which address the City's ability to declare and abate a public nuisance. However, on initial review, it is unclear how successful an action brought under these provisions may be. Should the City desire to undertake this course of action, one of the first steps would be to determine the suitability of the current ordinance to achieve the City's desired goal of abating a particular nuisance.

Seeking an injunction or court-ordered abatement for a public nuisance is similar to the other options outlined herein. Again, it requires a formal court process and can vary dramatically in terms of the amount of time and effort that the City will need to invest, depending largely on whether the property owner disagrees with the City's findings. The costs associated with the process mirror those of a hazardous building proceeding, and like those proceedings, the City also runs the risk that a court may not agree that a certain situation rises to the level of a public nuisance, and therefore bar the City from taking action to alleviate the situation.

Potential Costs – \$2,500-\$5,000 without contest or > \$35,000 or more if a full trial is required.

b) *Private Nuisance.* Private nuisances are those which affect or cause injury only to a small, isolated class of people. Typically, the City does not get involved in the abatement of such nuisances, and instead it is the injured party who brings a private cause of action seeking

¹ Minnetrista City Code, Section 1510.01 – 1501.1510.11

² Minn. Stat § 617.81, subd. 2.

abatement. This right is available to a property owner independent of whether the City undertakes any enforcement action.

Potential Costs – None to the City as this would entail a private cause of action brought by the complaining neighbor(s).

2. Hazardous Building Proceeding

A second option for dealing with some problem properties may be through utilization of the Hazardous Building Act, Minnesota Statutes, chapter 463. That chapter of law provides a process under which the City can deem a property or building to be hazardous and can pursue an abatement proceeding to have it cleaned up.

Under state law, a hazardous building is defined as “any building or property, which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment, constitutes a fire hazard or a hazard to public safety or health.” Because this is defined in state law, a property would need to meet this definition to be eligible for abatement under the hazardous building section. Establishing these conditions as a matter of law is critical to pursuing this type of action.

The process for abating a hazardous property under state law will vary greatly depending on the circumstances of each particular case. To institute a hazardous building proceeding, the City council would adopt an abatement order which would require the owner either to abate the nuisance or contest the City’s determination. If the property owner contests, the process would move forward similar to any other lawsuit, potentially culminating in a trial.

Some hazardous building proceedings are handled through default proceedings. In those instances, no one appears on behalf of the property owner to contest the City’s findings. If that is the case, the City can pursue a court order allowing for abatement with minimal effort, but the City must still convince the court that a hazardous building or property process is appropriate. However, if the owner challenges the City’s actions, time and expense can increase dramatically.

If successful through this process, the City can abate the nuisance and recover its costs, including potentially recovering any attorneys’ fees that the City incurs in bringing the action.

The costs associated with a hazardous building action can vary dramatically. Costs for carrying out a hazardous building proceeding through a default scenario may fall in the \$2,500-\$5,000 range, while costs for a full trial on a hazardous building can rise significantly to \$35,000 or more. Of course, some or all of those costs may be recoverable, but there is no guarantee that the City will certainly recover all of its legal fees in bringing such an action.

Potential Costs - \$2,500-\$5,000 without contest or > \$35,000 if a full trial is required.

3. Enforcement of Zoning Code. The City also retains its authority to enforce any provisions of the zoning code which are being violated. One of the more common scenarios where this authority may be invoked includes actions related to the use of property in a manner not permitted by the

zoning code, such as the operation of a business in a residential area, unless otherwise allowed by the property owner obtaining the necessary land use approvals (i.e., CUP). Additionally, these actions may be used to seek the removal of non-permitted structures, such as an excessively large structure, or a structure which has been located within an applicable setback.³ The City may do this through a cease-and-desist letter, injunctive legal relief such as a restraining order, or criminal prosecution. Additionally, to the extent that the property owner has any conditional use permits or other revocable land-use permits or licenses, the City may also take action to revoke those permits should it find the owner out of compliance with their terms.

Potential Costs – Difficult to estimate but, like other options mentioned, would generally be proportionate to the resistance the City meets in its enforcement efforts.

4. Towing Authority

The City also has certain statutory authority to tow vehicles. Under state law, the three types of vehicles which may be towed are:

(1) junk vehicles, defined as vehicles which are three years old or older and extensively damaged, to the point that they are apparently inoperable, without current registration, and where the approximate fair market value is equal to only that of the scrap in the vehicle;

(2) abandoned vehicles, defined as a motor vehicle which has remained illegally for a certain period of time, as determined by statute, on private or public property, and which lacks vital components or is inoperable such that it has no substantial potential for further use consistent with its usual functions; and

(3) unauthorized vehicles, defined as a vehicle that is subject to removal and impoundment pursuant to state law.⁴

Should a particular vehicle fit within any of these definitions, the statute provides a process under which the City may tow, impound, and potentially dispose of the vehicle.

Potential Costs – Difficult to anticipate. While the primary work would likely be undertaken by the City's police department, it would be necessary to ensure that the process was carried out in a manner that is compliant with the statutory authorization.

5. Eminent Domain

Under very limited circumstances, a city may exercise its eminent domain authority to condemn a problem property. Under this process, the City would need to pay the owner "reasonable compensation" for the property and it would need to be taken for a public use. In the code compliance area, the City would not be taking the property for a public use but instead would be

³ These examples are representative. Typically, any violation of the zoning code may potentially be remediated by seeking judicial action deeming the particular circumstance a violation and ordering it to be corrected.

⁴ These are general summaries of the definitions for each type of vehicle. The exact definitions can be found in state statute. See Minn. Stat. § 168B.011, subs. 2, 3, and 4.

responding to known or suspected code violations. Invoking eminent domain in such a manner may raise issues with the public-use doctrine. Condemnation also requires that the City Council find the property to be a public nuisance, as defined in state law.⁵

It is typical for there to be disagreement over what constitutes “reasonable compensation” in condemnation proceedings. Condemnation also requires a formal court proceeding. Because of this, there is a potential risk that the process becomes drawn out and the City incurs additional costs. Unlike a hazardous building proceeding, the City would not be entitled to reimbursement for its legal costs associated with such an action.

Unless the City proposes to acquire the subject property for a public use, condemnation is likely not available.

Potential Costs – Changes in state law which have occurred since roughly 2008/2009 have caused the costs to condemning authorities to rise significantly. Potential costs in this case cannot be estimated at this time but may involve payment of the landowner’s attorneys’ fees as well as compensation for the taking.

6. Other Agency Involvement

State law also provides a mechanism whereby a board of health can take actions to remove or abate certain hazard conditions. However, because most cities do not themselves have a board of health, it is often up to the county to step in and take action. The City may wish to contact the county in an effort to involve the county in the matter. Of course, it will be left entirely to the county to determine whether or not it believes that action is necessary and appropriate.

Potential Costs – Minimal to the City as this would be driven largely by county action.

7. Conclusion

Many of the options available to the City involve the potential for formal court proceedings. While many of the avenues described herein follow similar processes, they vary slightly. This memorandum has discussed these options in general terms and without detailed knowledge of the situation at hand. A review of the specifics of this situation would identify the best potential options for the City to consider, should further action be deemed appropriate. It should also be understood that the rough cost estimates offered are for legal and related expenses only and do not include the actual cost of the abatement (clean up).

⁵ Minn. Stat. § 609.74.

Section 1510 – Nuisances

1510.01. Prohibited conduct.

No person shall create, commit or maintain a public nuisance. No person shall willfully omit or refuse to perform any legal duty relating to the removal of a public nuisance. No person shall rent or permit to be used any premises, building or portion thereof, knowing that it is intended to be used for committing or maintaining a public nuisance. No person shall willfully prevent, hinder, oppose or obstruct a public official in the performance of his duties in carrying out the provisions of this article or in removing or abating a public nuisance.

1510.03. Public nuisance defined.

In this section "public nuisance" means doing an act, omitting to perform a duty, or maintaining a condition, which act, omission, or condition shall:

- (a) Annoy, injure or endanger the safety, health, comfort or repose of any considerable number of persons;
- (b) Unlawfully interfere with, obstruct, or tend to obstruct or render dangerous for use or passage, a body of water or a public park, street, alley or highway or other public property within this city;
- (c) Render any considerable number of persons insecure in life or obstruct their use of property.
- (d) Depreciate the value of the property of a considerable number of the inhabitants of this village or cause a blighted and undesirable neighborhood.

1510.05. Declaration of nuisances affecting health.

The following are public nuisances affecting health:

- (a) Any property upon which exists noxious weeds as defined in Minnesota Statutes, section 18.77, subd.8 or poisonous vegetation such as poison ivy, or weeds, grass, brush or other plants which are a fire hazard or otherwise detrimental to the health or appearance of the neighborhood.
- (b) The depositing or accumulation of refuse, sewage, waste, garbage, rubbish, poisonous or injurious substances at unlicensed places within this city.
- (c) A condition which is hurtful to the inhabitants, or dangerous to the public health, or injurious to neighboring property, or from which noxious odors, noises,

or foul substances arise, or from which dense smoke, noxious fumes, gas, or similar matter is produced in such quantities as to render the occupancy or use of property uncomfortable to a person of ordinary sensibilities, unless the same be done under authorization by public authority.

(d) The pollution of any public well, stream, lake, canal or body of water by sewage or industrial wastes or other deleterious substances.

(e) All other acts, omissions of acts, occupations and uses of property deemed by the state board of health or the health inspector to be a menace to the health of the inhabitants of this city.

1510.07. Declaration of other nuisances.

The following are public nuisances:

(a) All dangerous unguarded machinery, equipment, or other property or debris in any public place, or so situated or operated on private property as to attract the public.

(b) All unnecessary noises or vibrations rendering occupancy of property uncomfortable to a person of ordinary sensibilities.

(c) The piling, keeping, depositing, accumulation of, or unhoused storage of, old, unlicensed, wrecked or junked vehicles or machinery, or of junk, waste, or other debris.

(d) All wires strung less than 15 feet above the surface of any roadway, public thoroughfare, or public way.

(e) Any excavation left unprotected or allowed to exist in a manner as to attract or be dangerous to children.

(f) Equipment which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in the voltage off the premises, or creates electrical interference to surrounding properties.

1510.09. Notice to abate.

When a nuisance as described in this article is found to exist, the city, its officers, employees or agents, shall in writing order the nuisance removed within 48 hours or a longer time as is reasonably necessary to abate the nuisance, not to exceed 20 days without approval of the city council or order of a court. This notice shall be served by delivering a copy to the owner, lessee, or occupant of the premises, if any, and by certified mail or personal service upon the owner if known. If the property is unoccupied and the owner of the property is unknown or absent, with no known representative or

agent in the city upon whom the notice can be served, then a written notice shall be posted on the property, setting forth that unless the public nuisance is abated or removed within 20 days, the city will abate or remove the public nuisance at the expense of the owner. A copy of the posted notice shall be sent by certified mail to the last known address of the record owner of such property.

1510.11. Abatement by city.

If a person liable for a public nuisance fails or neglects to comply with the requirement of the notice served under this section, then the city shall proceed to have the nuisance removed or abated and report all costs thereof to the city, and the costs of such removal or abatement shall be assessed and charged against the property on which the nuisance was located; and the city clerk shall, at the time of certifying taxes to the county auditor, certify these costs, the county auditor shall extend the same on the tax rolls of the county against the parcel of ground and it shall be collected by the county treasurer and paid to the city as other taxes are collected and paid.

Section 1510 – Nuisances

1510.01. Public Nuisance Defined. Whoever by an act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

Subdivision 1. Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or

Subd. 2. Interferes with, obstructs, or renders dangerous for passage, in public streets, highway or right-of-way, or waters used by the public; or

Subd. 3. Is guilty of any other act or omission declared by law or this ordinance to be a public nuisance, whether or not any sentence is specifically provided therefore; or

Subd. 4. Permits real property under his or her control to be used to maintain a public nuisance, or rents the same, knowing it will be so used; or

Subd. 5. Permits or maintains any condition which causes a blighted or undesirable effect on a property.

1510.03. Definitions. The following words, when used in this ordinance, shall have the meanings ascribed to them:

Subdivision 1. Garbage. All putrescible animal, vegetable or other matter, including the cans, containers, or wrappers wasted along with such materials.

Subd. 2. Rubbish. All non-putrescible wastes such as wood waste, tree trimmings, shavings, paper, rags, clothing, soil, plaster, glass, ashes, tin cans and other metal products, plastics and any other debris, whether combustible or non-combustible.

1510.05. Additional Public Nuisances Defined. It is hereby declared to be a public nuisance to permit, maintain, cause, deposit, or harbor any of the following:

Subdivision 1. Diseased animals, fish or fowl, wild or domestic, whether confined or running at large.

Subd. 2. Carcasses of animals, fish or fowl, wild or domestic, not buried or destroyed within 24 hours after death.

Subd. 3. Garbage not stored in rodent free and fly-tight containers, or garbage stored so as to emit foul and disagreeable odors, or garbage stored so as to constitute a hazard to public health.

- Subd. 4. Accumulations of rubbish as defined herein.
- Subd. 5. The dumping of any effluent, garbage, rubbish, wastewater, fuel, oil, lubricant or other noxious substance upon public or private property.
- Subd. 6. Any open well, pit, excavation, structure, barrier or other obstruction which endangers public health, safety or welfare.
- Subd. 7. The pollution of any public or private well or cistern, any public stream, lake, canal, or body of water by effluent, garbage, rubbish or other noxious substance.
- Subd. 8. Any noxious weeds, or any other vegetation which endangers public health, safety or welfare.
- Subd. 9. The emitting or production of dense smoke, noxious fumes, gases, soot, cinders or sparks in unreasonable quantities.
- Subd. 10. The public exposure of persons having a contagious disease or condition which endangers public health, safety or welfare.
- Subd. 11. Accumulation of disused furniture, appliances, machinery, automobiles, trucks, buses, light and heavy equipment, semi-trucks, and any other related vehicles or equipment and parts thereof, and freight or cargo containers of any kind, which may become a harborage for rats, snakes or vermin, or which may be conducive to fire, or which endangers the health, safety or welfare of the public, or which leads to a blighting condition in a particular neighborhood.
- Subd. 12. Accumulations of animal waste, litter or manure which pose a risk of pollution of ground or surface waters or which endanger public health, safety or welfare.
- Subd. 13. Any motor vehicle which is not currently licensed in Minnesota or any other state, or which is not in operable condition, or which is partially dismantled, or which is used for the sale of parts, or as a source of repair or replacement parts for other vehicles, or which is kept for scrapping or dismantling or salvage of any kind, or any abandoned vehicle as that term is defined in Minn. Stat. Section 168B.011, subd. 2.
- Subd. 14. Maintenance of grass or weeds on a property at a height of more than eight inches, except:
- (a) on those portions of a property actively farmed or used for agricultural purposes;
 - (b) on residential properties one acre or larger in size and located in the R-1, R-2, R-2(a), R-3, R-5, RDB, A, AP, and SDD zoning districts, except that those portions of such properties that are maintained as lawn shall be kept in compliance with the above standard;

(c) on residential properties, on slopes in excess of 3:1; wetlands; wetland buffers; areas maintained in prairie or other native vegetation; or areas subject to a conservation or similar easement; and

(d) publicly owned parks, trails or nature areas.

Subd. 15. Any condition whereby any fuel, oil, fluid, or other substance is allowed to leak from any motor vehicle and leech into the ground.

Subd. 16. Violation of any provision of the city code related to the keeping of or care of animals.

Subd. 17. Any condition which creates excessive exterior storage resulting in a blighted condition of a property, or which is open and obvious to neighboring properties or to the general public from public areas.

Subd. 18. Anything else declared to be a nuisance by Minnesota statute or by the Minnetrista city code.

1510.07. Abatement of Abandoned and Junk Vehicles. The chief of police or their designee may take into custody and impound any vehicle described in Section 1510.05, subd. 13 in the manner authorized under Minn. Stat. Sections 168B.01 through 168B.101.

1510.09. Abatement of All Other Nuisances.

Subdivision 1. Procedure. Except with regard to the abatement of vehicles described in Section 1510.05, subd. 13, whenever a designated city official determines that a public nuisance is being maintained or exists on a property in the city, the official shall notify in writing the owner of record or occupant of the property of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the official shall report that fact forthwith to the city council. Thereafter, the city council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the city council, the nuisance be abated by the city.

Subd. 2. Notice. Written notice of the violation; notice of the time, date, place, and subject of any hearing before the city council; and notice of the city council order shall be served by a peace officer or designated official on the owner of record or occupant of the property either in person or by certified or registered mail. If the property is not occupied, the owner of record is unknown, or if the owner of record or occupant refuses to accept notice, notice of the violation shall be served by posting it on the property.

Subd. 3. Emergency procedure; summary enforcement. In cases of emergency, where delay in abatement required to complete the procedure and notice requirements as set forth in

subdivisions 1 and 2 of this section will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the city council may order summary enforcement and abatement of the nuisance. To proceed with summary enforcement, the designated official shall determine that a public nuisance exists or is being maintained on property in the city and that delay in abatement will unreasonably endanger public health, safety, or welfare. The designated official shall notify in writing the occupant or owner of the property of the nature of the nuisance, and that public health, safety, or welfare will be unreasonably endangered by a delay in abatement required to complete the procedure set forth in subdivision 1 of this section and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the city council may order summary enforcement and abatement of the nuisance.

Subd. 4. Immediate abatement. Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.

Subd. 5. Judicial remedy. Nothing in this section shall prevent the city from seeking a judicial remedy in addition to or in lieu of an administrative remedy.

1510.11. Recovery of Cost.

Subdivision 1. Personal liability. The owner of the property on which a nuisance has been abated by the city, or a person who has caused a public nuisance on property not owned by that person, shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the city clerk or other city official shall prepare a bill for the cost and mail it to the owner and occupant, where applicable. Thereupon the amount shall be immediately due and payable at the office of the city clerk.

Subd. 2. Costs constitute service charge. Any charges incurred by the city in carrying out any obligations under this section shall constitute a service charge pursuant to Minn. Stat. 366.012 and Minn. Stat. 415.01. The city may recover all unpaid services charges as authorized by state law, including but not limited to as a special assessment pursuant to Minn. Stat. ch. 429.

Subd. 3. Assessment. After notice and hearing as provided in Minn. Stat. 366.012 and Minn. Stat. 429.061, as they may be amended from time to time, the city clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minn. Stat. 429.101 against each separate lot or parcel to which the charges are attributable. The city council may then spread the charges against the property under that statute and any other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding 10, as the city council may determine in each case.

1510.13. Severability.

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.