



CITY OF SPRING PARK
WORK SESSION AGENDA
DECEMBER 17, 2018 – 6:00 PM
SPRING PARK CITY HALL

(Work Session discussion times are approximate)

1. 6:00 – RENTAL ORDINANCE UPDATE

Al Brixius will give the Council an update on the ongoing discussion by the Planning Commission regarding a rental ordinance.

2. 6:20 – NUISANCE CODE ENFORCEMENT UPDATE

Attached for review is an excerpt from a League of Minnesota Cities memo regarding public nuisances. The excerpt specifically relates to the remedy process and details a number of options that City's have when it comes to obtaining code compliance. City Attorney Mary Tietjen will be in attendance to give the Council a brief overview of the pros and cons of each method.

3. 6:35 – 2019 STAFF WAGES DISCUSSION

Attached for review is a breakdown of the City's cost for various levels of staff wages for next year. Additionally, a comparison with neighboring cities is included, although it should be noted that the data for the other cities is only current as of 2017, while the data included for Spring Park is current as of 2018.

4. 6:40 – 2019 COUNCIL APPOINTMENTS DISCUSSION

Attached is a list of appointments made by the Council at the beginning of the year. Please review and determine if you would like to continue in the same capacity for 2019 or if you would like to potentially serve on a different committee.

5. 6:45 – MISCELLANEOUS

6. 6:50 – ADJOURN

RELEVANT LINKS:

Lorshbough v. Township of Buzzle, 258 N.W.2d 96 (Minn. 1977). *Pelican Lake Property Owners Ass'n v. County of Crow Wing*, Nos. C5-98-1549, C3-98-1940 (Minn. Ct. App. Aug. 17, 1999) (unpublished decision). *Schultz v. Frank*, No. C1-00-285 (Minn. Ct. App. Aug 1, 2000) (unpublished decision).

Minn. Stat. § 412.231.

Minn. Stat. § 609.02.

VII. Remedies

Cities have choices in how they will remedy nuisance conditions and enforce their nuisance ordinances. Adopting an ordinance may create a duty to take some reasonable steps to enforce it on behalf of the general public. Most cities will use a combination of methods, depending upon their resources and the seriousness of the offense. Whatever methods are used, it is a good practice to have a policy guiding when a particular method will be used. This will ensure that similar violations are treated equally.

A. Self-remedy

The most cost-effective way to remedy nuisance conditions is for the individual to correct the situation him- or herself with minimal city involvement. There are situations where someone is unaware that he or she is maintaining a nuisance and will correct the situation when so informed through a letter or a conversation.

Cities can also consider other potentially effective voluntary approaches for nuisance elimination. For example, many cities sponsor neighborhood cleanup days or city-wide recycling events. These activities: provide individuals the opportunity to dispose of many larger items; provide an opportunity for neighborhood residents to work together to address general maintenance issues; and may provide incentive for individuals to fix up their own property.

B. Criminal prosecutions

Most nuisance ordinances provide that violations will constitute a misdemeanor offense. A misdemeanor is a crime for which a sentence of not more than 90 days imprisonment or a fine of not more than \$1,000 (or both) may be imposed.

Criminal prosecutions may take longer than other alternatives and require a higher burden of proof (beyond a reasonable doubt). However, a possible criminal conviction can provide a good incentive for the individual to bring his or her property into compliance.

As part of the criminal sentencing, some or all of the actual jail time or fines may be suspended (or stayed), so long as the nuisance condition is remedied within a particular period of time.

C. Civil actions

When the city has reasonable grounds to believe a nuisance exists, it may bring a civil action in district court to end that activity.

RELEVANT LINKS:

See Part VII – F –
Abatement.

*Hannan v. City of
Minneapolis*, 623 N.W.2d
281 (Minn. Ct. App. 2001).
City of Ramsey v. Kiefer, No.
A08-1714 (Minn. Ct. App.
Aug. 25, 2009) (unpublished
decision).

Handbook, City Licensing.
*Handbook, City Regulatory
Functions.*

Minn. Stat. § 415.17.

Rather than seek criminal penalties, cities often pursue a civil remedy to achieve compliance with a city ordinance. Civil actions are generally faster, preferred by the courts, and provide the city the advantage of a lower burden of proof (preponderance of the evidence). Civil remedies can include injunctions or restraining orders. Subsequent violations of restraining orders can be enforced through contempt proceedings.

D. Administrative enforcement

Some cities have adopted administrative enforcement ordinances for dealing with nuisance conditions. An administrative process is a quasi, non-judicial alternative remedy. Under this system, property owners (or other types of alleged nuisance violators) are provided the opportunity to present their side before an administrative hearing officer (or panel) appointed by the city council. When violations are found, penalties typically follow a pre-established schedule: more nominal fees for a first violation with increased penalties for subsequent acts.

The advantage to establishing an administrative hearing procedure is that it is less formal, less costly, and potentially less intimidating than the court system. The accused is given a chance to come into compliance, with all monies collected retained by the city, not distributed through the state court system.

Cities should be aware that both the state auditor and the state attorney general have questioned whether cities have authority to enact these local processes. Accordingly, cities contemplating such an ordinance should work closely with their city attorney.

E. Licensing

Cities also address nuisance conditions through common regulatory means, such as city licenses, permits, and other forms of required registration. The use of licenses and permits offer cities an effective means to monitor compliance. The conditions included with the application process help ensure that an applicant complies with ordinance requirements before the license or permit is issued. If it is found at a later time that the license or permit holder is not in compliance, the city can suspend, revoke, or deny renewal of the license or permit, and potentially even close a business unless or until it is brought back into compliance.

Licensing practices can provide broad benefits to local communities by addressing direct and secondary impacts of particular activities. For instance, cities often regulate:

- The consumption and sale of alcohol.
- The conduct of adult businesses.
- The conduct of lawful gambling.

RELEVANT LINKS:

See LMC information memo,
Zoning Guide for Cities.

Zylka v. City of Crystal, 283
Minn. 192, 167 N.W.2d 45
(Minn. 1969).

City of Duluth v. Krupp, 46
Minn. 435, 49 N.W. 235
(1891). *Orr v. City of
Rochester*, 193 Minn. 371,
258 N.W. 569 (1935).
"Setting Municipal Fees,"
Minnesota Cities (Apr. 2004,
p. 19).

See Part VII – A – *Self-
remedy*.

*State v. Sportsmen's County
Club* 214 Minn. 151, 7
N.W.2d 495 (1943).

Minn. Stat. §§ 617.82-.83.
See Minnesota House
Research Dept., *Minnesota's
Public and Private Nuisance
Laws* (July 2008).

See Part VII – F – 3 – *Orders
of abatement*.

- The operations of peddlers, solicitors, and transient merchants.
- The use of city streets and sidewalks.
- Land use and development.

A land use tool known as a conditional use permit (CUP) is a good example of such a regulation. Conditional uses seek to strike a middle ground between the unchecked approval of a particular use and complete prohibition. Conditional uses are uses that will be allowed if certain conditions (that minimize the problematic or nuisance features of the use) are met. If such conditions are not followed, the permit may be revoked.

An additional benefit with licensing or permitting systems is the collection of a fee. A proper license fee can include the law enforcement/city staff costs required to properly enforce the city regulations or address the other negative consequences that are likely to occur with that type of activity. Cities cannot set license fees so high as to prohibit such businesses (or activities) within the city altogether.

F. Abatement

Regardless of what level of priority is placed on regulating nuisance activities, situations will arise that demand city action. Who will act and how the situation is actually remedied depends upon the particulars involved.

1. Voluntary abatement—notice

In almost all cases, the city's first step in an abatement process is the request for a voluntary remedy of the nuisance condition. Again, convincing an individual to take care of his or her own problems is the most cost-effective way to address most public nuisances. If this does not occur, a clearly written notice is an important first step in providing due process, ensuring that the individual's property rights are protected if the city must abate the condition itself.

2. Injunctions

Since the criminal process can often times be slow and the results are uncertain, it may be necessary to seek injunctive relief to terminate or prevent a nuisance. Under its duty and authority to protect the rights of all of its citizens, a city can obtain injunctions to restrain public nuisances.

The city attorney files a petition with the district court seeking a temporary injunction. The court will hold a "show cause" hearing to provide the alleged violator an opportunity to be heard on the allegations within the petition. If the judge believes that the condition has occurred, he or she will issue a temporary injunction, detailing the prohibited conduct or conditions. After a temporary injunction is issued, the court, after a further

RELEVANT LINKS:

Minn. Stat. § 617.86.

See *Public Nuisances*, LMC Model Ordinance.

Ames v. Cannon River Mfg. Co., 27 Minn. 245, 6 N.W. 787 (1880).

Minn. Stat. § 617.82.
City of West St. Paul v. Krengel, 768 N.W.2d 352 (Minn. 2009).

hearing, may issue a permanent injunction and order of abatement if it finds (by clear and convincing evidence) that a nuisance exists. Violation of temporary or permanent injunction is treated as contempt of court.

When adopting a nuisance ordinance, it is important to include a provision providing that the city will seek a court injunction when no other adequate remedy exists.

3. Orders of abatement

For some nuisance conditions, an order preventing the condition from continuing will sufficiently end the problem conduct. Noise nuisances are a good example; when the noise is no longer allowed, the nuisance no longer exists. In others circumstances (such as the long grass and weeds), the nuisance will continue until steps are taken to eliminate the condition (the grass and weeds are cut). In those cases, an abatement order will provide the process for nuisance elimination.

a. Judicial Orders

When a city seeks relief through the courts, the judge's order will provide the process for abatement. It may provide the owner the opportunity to remedy the situation himself, as well as provide deadlines for when the city may remove the situation itself. The court is available to resolve any additional disputes that may arise during the process, or impose additional penalties for not complying with the order.

The property owner may enter into an agreement with the city to avoid the issuance or enforcement of an abatement order. If the property owner fails to abate the public nuisance conditions, the city may again seek an injunction.

b. City orders

Many cities attempt to avoid the judicial process by including within their local ordinances the authority to abate nuisance conditions themselves. Mindful of property rights and the need to provide adequate due process, the city ordinance typically provides for:

- Property inspections (which may require obtaining the necessary warrants) and documentation of any nuisance condition or activity.
- Written notice of the finding of a violation of city ordinance provided to the owners or operators.
- An opportunity to contest the nuisance finding with the city council or selected neutral party.

RELEVANT LINKS:

See Part XI – *Special assessments.*

Minn. Stat. §§ 504B.395-471.
Minn. Stat. § 504B.381.

Reed v. Board of Park Com'rs of City of Winona,
100 Minn. 167, 110 N.W. 1119 (1907).

Kelty v. City of Minneapolis,
157 Minn. 430, 196 N.W. 487 (1923).

See Part IX – C – *Documentation.*

- Written notice of the date when the violation of city ordinance must be remedied; possible second written notice when the condition has not been corrected; notice of the court date if the city seeks a court order declaring the nuisance condition.
- City cleanup of the nuisance condition.
- When personal property is removed in the cleanup process, an inventory of all property collected; notice of where the property can be reclaimed; and the date by which it must be reclaimed, or it will be disposed of (sold or destroyed) by the city. Depending upon the property involved, there may be specific statutory procedures to follow.
- An inventory of all costs involved (i.e., cleanup and storage).
- A claim sent to the property owner for the total costs of abatement, as well as how costs will be collected, including possible certification and collection with property taxes.

c. Tenants Remedies Act

There is also limited authority for a city to intervene in landlord-tenant situations. A state, county, or local department or authority, charged with enforcing health, housing, or building maintenance codes has specific statutory authority to bring an action in district court and request a remedy (landlord ordered to remove condition) for violation of health, safety, housing, building, fire prevention, or housing maintenance codes on the tenant's behalf.

4. Summary/emergency abatement

While cities typically must provide notice and a chance to respond to nuisance conditions, there are limited circumstances that may justify dispensing with standard procedures. There are situations so dangerous that require immediate repair or elimination, such as:

- Open wells.
- Abandoned machinery and appliances (i.e., "locking" refrigerators).
- Downed power lines.
- Fallen trees.
- Obstructed streets and sidewalks.
- Raw sewage.

The power to summarily abate nuisances is limited, based upon actual necessity as defined and provided by ordinance. When summary action is necessary, city officials need to document the circumstances, preparing reports and taking photographs to support and defend their actions if necessary.

RELEVANT LINKS:

City of Minneapolis v. Meldahl, 607 N.W.2d 168 (Minn. Ct. App. 2000).
Minn. Stat. § 463.16.
See LMC information memo, *Dangerous Properties*.

5. Demolitions

State statutes, as well as some city ordinances, provide for the destruction of buildings, structures, or other nuisance situations. As a drastic, irreversible solution to nuisance conditions, demolitions should only be used as a last resort and after all statutory and procedural requirements are strictly followed. When repairs or alterations can be made to remedy a hazardous situation, repairs should generally be ordered, rather than destruction of the property.

2019 Base Personnel Costs								
Employee	Base Salary	Hourly Wage	On-Call / Overtime Wages	PERA	Social Security/ Medicare	Short Term Disability	Health Insurance	Total Payable (Not Including Flex Leave)
Dan Tolsma	\$89,107.20	\$42.84	\$0.00	\$6,683.04	\$6,816.70	\$168.00	\$13,896.00	\$116,670.94
Sharon Farniok*	\$37,812.74	\$22.72	\$0.00	\$2,835.96	\$2,892.67	\$168.00	\$13,920.00	\$57,629.37
Theresa Schyma	\$65,242.11	\$31.37	\$2,500.00	\$5,080.66	\$5,182.27	\$168.00	\$8,316.00	\$86,489.04
TOTAL	\$192,162.05	\$96.93	\$2,500.00	\$14,599.65	\$14,891.65	\$504.00	\$36,132.00	\$260,789.35

* Sharon works 32 hours per week

2019 Base Personnel Costs with 1.8% Cost of Living Increase								
Employee	Base Salary	Hourly Wage	On-Call / Overtime Wages	PERA	Social Security/ Medicare	Short Term Disability	Health Insurance	Total Payable (Not Including Flex Leave)
Dan Tolsma	\$90,711.13	\$43.61	\$0.00	\$6,803.33	\$6,939.40	\$168.00	\$13,896.00	\$118,517.87
Sharon Farniok*	\$38,493.37	\$23.13	\$0.00	\$2,887.00	\$2,944.74	\$168.00	\$13,920.00	\$58,413.11
Theresa Schyma	\$66,416.47	\$31.93	\$2,500.00	\$5,168.74	\$5,272.11	\$168.00	\$8,316.00	\$87,841.32
TOTAL	\$195,620.96	\$98.68	\$2,500.00	\$14,859.07	\$15,156.25	\$504.00	\$36,132.00	\$264,772.29

* Sharon works 32 hours per week

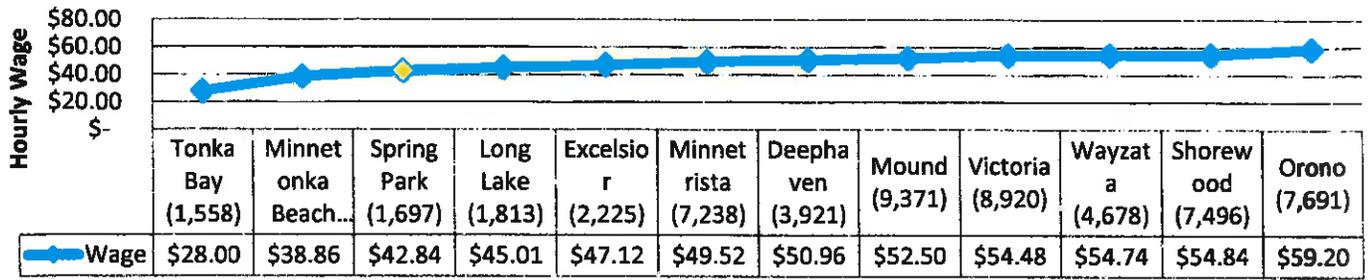
2019 Base Personnel Costs with 3% Cost of Living & Merit Increase								
Employee	Base Salary	Hourly Wage	On-Call / Overtime Wages	PERA	Social Security/ Medicare	Short Term Disability	Health Insurance	Total Payable (Not Including Flex Leave)
Dan Tolsma	\$91,780.42	\$44.13	\$0.00	\$6,883.53	\$7,021.20	\$168.00	\$13,896.00	\$119,749.15
Sharon Farniok*	\$38,947.12	\$23.41	\$0.00	\$2,921.03	\$2,979.45	\$168.00	\$13,920.00	\$58,935.61
Theresa Schyma	\$67,199.38	\$32.31	\$2,500.00	\$5,227.45	\$5,332.00	\$168.00	\$8,316.00	\$88,742.83
TOTAL	\$197,926.91	\$99.84	\$2,500.00	\$15,032.02	\$15,332.66	\$504.00	\$36,132.00	\$267,427.59

* Sharon works 32 hours per week

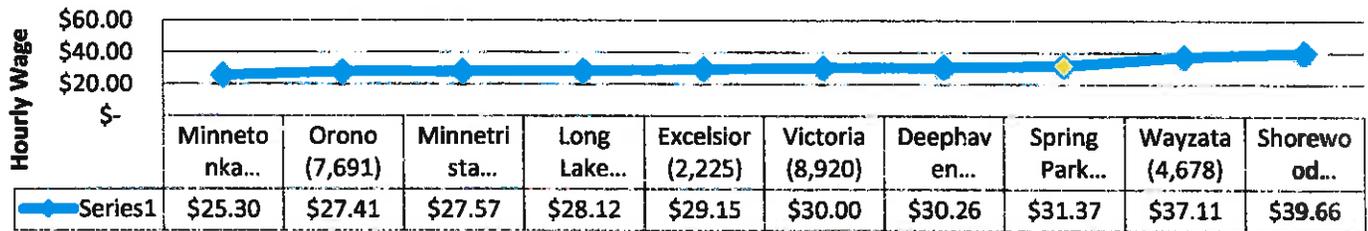
2019 Base Personnel Costs with 4% Cost of Living & Merit Increase								
Employee	Base Salary	Hourly Wage	On-Call / Overtime Wages	PERA	Social Security/ Medicare	Short Term Disability	Health Insurance	Total Payable (Not Including Flex Leave)
Dan Tolsma	\$94,339.57	\$45.36	\$0.00	\$7,075.47	\$7,216.98	\$168.00	\$13,896.00	\$122,696.02
Sharon Farniok*	\$40,033.10	\$24.06	\$0.00	\$3,002.48	\$3,062.53	\$168.00	\$13,920.00	\$60,186.11
Theresa Schyma	\$69,073.13	\$33.21	\$2,500.00	\$5,367.98	\$5,475.34	\$168.00	\$8,316.00	\$90,900.46
TOTAL	\$203,445.80	\$102.62	\$2,500.00	\$15,445.94	\$15,754.85	\$504.00	\$36,132.00	\$273,782.59

* Sharon works 32 hours per week

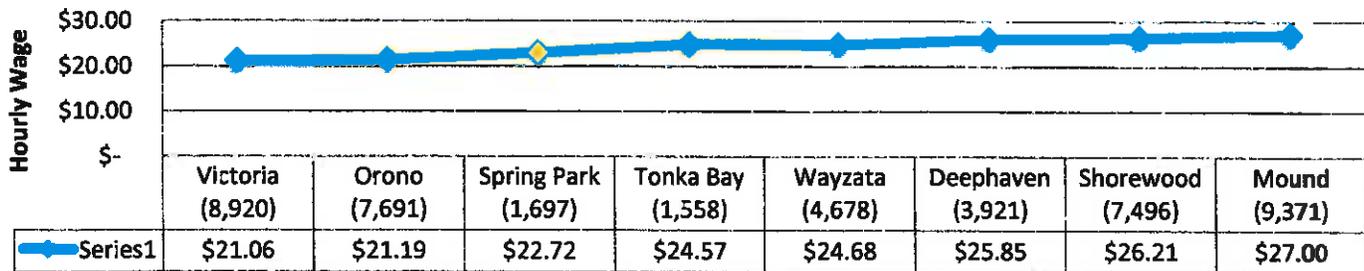
City Administrator / Manager



City Clerk (or closest comparable)



Office Assistant / Utility Billing Clerk (or closest comparable)





To: Spring Park City Council

From: City Administrator

Re: Committee Appointments 2019

Date: December, 2018

Attached is the list of the current appointments for the 2018 City Council. Please indicate if you have any interest in continuing to serve for 2019 in the same role if you are currently doing so, or if you would like to serve in a new or different one.

Committee appointments will be voted on at the first meeting of the calendar year on January 7, 2019.

Please return your comments to me via mail, phone, or email (dtolsma@ci.spring-park.mn.us) by Wednesday, January 2nd.

City Administrator
Dan Tolsma

**CITY OF SPRING PARK
SPRING PARK, MINNESOTA
APPOINTMENTS FOR YEAR 2019**

- | | |
|--|---|
| 1. ACTING MAYOR | Hughes |
| 2. ACCOUNTANT | Abdo Eick & Meyers, LLP |
| 3. AUDITOR | MMKR, James Eichten |
| 4. CITY ATTORNEY | Kenedy & Graven |
| 5. CITY PROSECUTING ATTORNEY | Greg Keller |
| 6. EMERGENCY MANAGEMENT DIRECTOR
LOCAL COORDINATOR | Chief of Police
PeopleService |
| 7. CITY ENGINEER | Sambatek, Mike Kuno |
| 8. CITY ASSESSOR | Hennepin County |
| 9. OFFICIAL SIGNATURES
ALTERNATE SIGNATURES | Mayor, City Clerk
Acting Mayor, City Administrator |
| 10. OFFICAL NEWSPAPER | The Laker |
| 11. WEED INSPECTOR
ALTERNATE | Mayor
Kane Palen |
| 12. ADMINISTRATIVE COMMITTEE
ALTERNATE | Rockvam, Hughes
Pavot |
| 13. GILLESPIE CENTER REPRESENTATIVES
(City may appoint up to 2 representatives; at least 1 shall be a Council Member) | Horton, Bren (resident) |
| 14. POLICE COMMISSION
ALTERNATE
(City may appoint up to 2 representatives) | Rockvam, Pavot, Administrator
Kane Palen |
| 15. PLANNING COMMISSION EX-OFFICIO
ALTERNATE | Kane Palen
Horton |
| 16. BEAUTIFICATION COMMISSION | Planning Commission |

- | | |
|--|---|
| 17. LAKE MINNETONKA CABLE COMMISSION
(City may appoint up to 2 representatives; at least 1 shall be a Council Member) | Horton, Williamson (resident) |
| 18. SUBURBAN RATE AUTHORITY (SRA) | City Administrator |
| 19. DATA PRACTICES COMPLIANCE OFFICIAL
RESPONSIBLE AUTHORITY | City Clerk
City Clerk |
| 20. INVESTMENT, FINANCE, & PERSONNEL | Rockvam, Pavot, Administrator |
| 21. FIRE COMMISSION
ALTERNATE
(City may appoint up to 2 representatives) | Hughes, Administrator
Kane Palen |
| 22. LMCD BOARD OF DIRECTORS | Hughes (term ends 01/19) |
| 23. PLANNING COMMISSIONERS | Homan (term ends 5/18)
Avalos (term ends 5/19)
Hoffman (term ends 5/19)
Mason (term ends 5/20)
Kaczanowski (term ends 5/20) |