



CITY OF SPRING PARK
WORK SESSION AGENDA
APRIL 17, 2017 – 6:00 PM
SPRING PARK CITY HALL

(Work Session discussion times are approximate)

1. 6:00 – COUNCIL RULES REFRESHER & ORIENTATION
2. 6:25 – CITY CREDIT CARD DISCUSSION
3. 6:30 – SEXUAL PREDATOR RESIDENCY RESTRICTIONS DISCUSSION
4. 6:40 – ASSET MANAGEMENT – FINAL PHASE
5. 6:50 – GOAL SETTING SURVEY HANDOUT
6. 6:55 – ADJOURN



A Good Start to Good Governance

A Sampling of Guidance for Newly Elected City Officials from the League of Minnesota Cities

You've got a big to-do list and you're excited to get started. But before you do, there are a few things you'll want to know that are covered in this document, like:

- **Can I re-hash the city council meeting with my colleagues at the café after we adjourn?**
Find out if council can talk about city business outside of a public meeting—see page 11.
- **Can I talk to the public works director about some department performance problems I've identified?**
Find out what power a single councilmember has to make changes—see page 2.
- **Can I improve the efficiency of our city government by using e-mail to communicate among councilmembers?**
Find out if it's a problem that the public can't see and participate in these discussions—see page 12.

Comprehensive
resources for new
city officials like you at:
www.lmc.org/goodstart

Don't think twice about turning to the League of Minnesota Cities for answers!

This booklet represents just a sample of the governance information and resources the League offers. When you need to know more, turn to the League!

- Contact the League anytime with any questions at (800) 925-1122 or research@lmc.org.
- Check out more great resources for new city officials at www.lmc.org/goodstart.

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The information below on elected officials and council structure and role is an excerpt from Chapter 6 of the League's Handbook for Minnesota Cities.

The *Handbook* is available FREE on the League's website at www.lmc.org. It has information for city councils on:

- the form and structure of Minnesota Cities;
- elections, elected officials, and council meetings;
- regulatory and development functions of cities, liability, finance, budgeting and debt, and more.

Elected officials and council structure and role

The cornerstone of city government in Minnesota is the elected city council. The city council fashions the policies that determine a community's present and future well-being. Because people look to their local government for leadership, much of the responsibility for community development falls on the shoulders of city councilmembers.

Although the mayor is a member of the council in statutory cities and the clerk is a member of the council in Standard Plan cities, the mayor and clerk in all cities have some special duties. This chapter will discuss the special aspects of these positions and the city council's role in city governance.

■ Terms of office

All terms of office in statutory cities begin on the first Monday of January following the election. The terms of the old officers end at this time, or as soon after that as the newly elected officers qualify by taking an oath and filing a bond, if one is required. If the newly elected officer refuses or fails to qualify, the incumbent officer continues to hold office until the council declares the office vacant and appoints a successor. The length of the various terms of office is provided by statute.

■ Oath of office

Whether or not officials need a bond, they must take and sign an oath of office before exercising any of their powers. This includes members of councils, boards, commissions, and administrative officers. This applies to appointed as well as to elected officials. The oath is as follows:

"I, (name) do solemnly swear to support the Constitution of the United States, the Constitution of the State of Minnesota, and to discharge faithfully the duties of the office of (insert brief description of office) of the city of (insert city), Minnesota, to the best of my judgment and ability, so help me God."

If the officer objects to an oath on religious grounds, the word "affirm" can substitute for the word "swear," and the phrase "and this I do under the penalties of perjury" can substitute for the phrase "so help me God."

Any person with authority to take and certify acknowledgments may administer the oath, including the city clerk, a justice of the peace, a notary public or a register of deeds. The candidate taking the oath must lift his or her hand while reciting the oath. The candidate qualifying for office must take the oath and sign a copy of the oath in the presence of the administering official.

The signed copy should go to the city clerk for filing. City assessors should file their copy with the county auditor. If an officer must also submit a bond, the oath should be attached to the bond and both documents should go to the city council for approval and then to the clerk for filing.

City council and its powers

It is the duty of the mayor, clerk, and councilmembers to ensure the city is fulfilling its duties under the law and lawfully exercising its powers.

City officials can sometimes be held personally liable for failing to act or for taking unauthorized actions on the part of the city. To avoid personal-liability lawsuits, city officials should gain a working knowledge of the laws that regulate city government. Whenever there is any doubt about the validity of an action or procedure, city officials should consult their city attorney.

■ Role of the individual councilmember

Councilmembers' statutory duties are to be performed, almost without exception, by the council as a whole. For example, the council, not individual councilmembers, must supervise administrative officers, formulate policies, and exercise city powers.

Councilmembers should devote their official time to problems of basic policy and act as liaisons between the city and the general public. Councilmembers should be concerned, not only with the conduct of daily affairs, but also with the future development of the city.

The most important single responsibility of a councilmember is participation at council meetings. In statutory cities, each councilmember, including the mayor, has full authority to make and second motions, participate in discussions, and vote on every matter before the council.

In a statutory city, any two councilmembers of a five-member council or any three members of a seven-member council may call a special meeting. Care should be exercised to give proper notice, however.

As individuals, councilmembers have no administrative authority. They cannot give orders or otherwise supervise city employees unless specifically directed to do so by the council. The council, however, has complete authority over all administrative affairs in the city. In Plan B cities, this authority is generally restricted to conducting investigations and establishing policies to be performed by the manager.

Under prior law that was repealed in 2001, all members of the council, including mayors, were “peace officers.” Councilmembers were authorized to suppress any “riotous or disorderly conduct” in the streets or public places of the city. This law no longer applies, and the mayor and individual councilmembers have no peace-officer authority.

YOU'LL
WANT
TO
KNOW
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■ The council’s authority

The city council is a continuing body. New members have no effect on the body except to change its membership. This means that all ordinances and resolutions remain in effect until the council alters or rescinds them, or until they expire through their own terms. At any time, the council can change any resolution, ordinance or administrative order whether or not the individuals presently on the council are the same as those serving when the council originally took action.

There are exceptions to this rule. For example, the council cannot dissolve a perpetual-cemetery-maintenance fund. In addition, the council cannot rescind or unilaterally alter any valid contracts. This means the law of contracts applies to the council as it does to any other party. Whether a contract was validly made is a question of fact.

The following information outlines the major areas of council authority and responsibility.

1. Judging the qualification and election of its own members

The council evaluates the credentials of individuals who are, or who claim to be, members of the council. This power includes certifying election results, determining whether an individual has the necessary qualifications to hold office, and deciding whether a council vacancy has occurred.

2. Setting and interpreting rules governing its own proceedings

The council has the following powers:

- To preserve order during its own meetings.
- To establish rules of procedure.
- To compel the attendance of members at meetings and to punish nonattendance. The council does not have the power to remove members from office, but it may punish members by fines or by deducting a part of the absentee’s compensation for failure to comply with attendance orders.

3. Exercising all the powers of cities that the law does not delegate to others

Except for powers that the statutes delegate to a specific official or independent board or commission, the council has the authority to exercise all powers given to the city.

4. Legislating for the city

The council may enact ordinances by a majority vote of all its members except where a larger number is required by law. The power to legislate also includes setting administrative policies and otherwise establishing public policy for the city.

The council has the power to declare that violations of any ordinance are a crime and may prescribe penalties for ordinance violations. The statutory city code limits the penalty for ordinance violations to a fine of up to \$1,000 or 90 days in jail, or both.

5. Directing the enforcement of city ordinances

The council directs the enforcement of city ordinances by determining the level of law enforcement, setting qualifications for the police chief and police officers, purchasing certain types of equipment for police use, and by directing and supervising the work of police officers indirectly, through the police chief. The city council also directs all departments and employees responsible for the administration of its policies and ordinances in the general administration of their duties. The city council generally should not direct the enforcement efforts of its employees as to particular situations.

6. Appointing administrative personnel

In Standard Plan and Plan A cities, the council has the sole authority to appoint all city employees.

In Plan B cities, the council appoints a city manager, who in turn appoints all city employees.

The council may not dictate that the city manager appoint a particular person to city employment.

Additionally, the council may not give any orders to any subordinate of the manager, either publicly or privately.

7. Transacting city business

The transaction of city business includes a wealth of activities, such as purchasing, executing legal papers, taking bids, letting contracts, making discretionary administrative decisions, and evaluating the work of the administrative departments and personnel.

8. Managing the city's financial operations

The council has full authority over the city's financial affairs, including but not limited to:

- Levying taxes.
- Adopting a budget.
- Auditing and settling accounts.
- Safekeeping and disbursement of public monies.
- Borrowing money.
- Designating depositories.

Councils should seek the advice of their staff and of consultants in making many of these decisions.

9. Appointing members of the boards

The council may create departments and advisory boards and appoint officers, employees, and agents for the city as deemed necessary for the proper management and operation of the city.

10. Conducting the city's intergovernmental affairs

The council may make agreements for the joint exercise of powers through agreements with other units of government, appoint people to serve on intergovernmental bodies, conduct city business with state and federal agencies, and participate in intergovernmental programs and the work of municipal associations such as the League of Minnesota Cities.

11. Protecting the welfare of the city and its inhabitants

Elected officials must formulate policies that will help the city solve anticipated problems and adjust to social and economic trends. This requires long-range planning regarding city facilities and needs.

12. Providing community leadership

In addition to participating in civic events, city officials provide leadership by promoting new ideas and suggesting new programs to improve the community and its surrounding areas.

Mayor

As the head of the city, the mayor officially speaks for both the government and the community as a whole. In all statutory cities and in most charter cities, the mayor is the presiding officer and a regular member of the city council. The mayor has all the powers and duties for the office of councilmember in addition to those of mayor.

In a home rule charter city, the charter spells out the duties and responsibilities of the mayor. This chapter, however, deals with mayors of statutory cities.

Many mayors belong to the Minnesota Mayor's Association (MMA), which is affiliated with the League and holds an annual conference on issues of interest to mayors. Contact the League for more information about the MMA.

■ Official head of the city

As the official head of the city, the mayor has three important responsibilities:

First, the mayor usually serves as the city's representative before the Minnesota Legislature, federal agencies, and other local governments.

Second, the mayor performs ceremonial duties on behalf of the community. The mayor usually greets important visitors, gives formal and informal talks, and takes part in public events. Because local civic groups frequently ask the mayor to speak, the mayor must be prepared to explain city problems and defend city programs.

A third responsibility is to exert leadership in city affairs. Because the mayors of statutory cities lack significant individual authority, this responsibility frequently calls for tact rather than overt acts of direction or supervisory control.

■ Executing official documents

The mayor of a statutory city must sign ordinances, contracts authorized by the council, and written orders for payment of claims that have been audited and allowed by the council. These are ministerial duties, and the mayor may not refuse to sign if the purpose, approval, and form are legally correct and complete.

■ Power to make some appointments

The power to appoint usually resides in the council. The mayor has authority to make the following appointments, however, subject to council approval:

- Park board members.
- Public library board members.
- Emergency management director.
- Hospital board members.
- Some police civil service commission members.
- HRA members.
- EDA members.

The mayor has authority to make the following appointments without needing council approval:

- City art commission members (First Class cities).
- The mayor also appoints to fill vacancies in elective offices if the council vote to fill the vacancy is tied.

■ Presiding officer at council meetings

Plan A and Plan B statutory city councils are usually composed of five members consisting of the mayor and four councilmembers. In a Standard Plan city, the council consists of the mayor, the clerk, and three councilmembers. Any statutory city, however, may adopt a council size of seven following a council ordinance and voter approval at the next general city election.

The mayor serves as presiding officer at council meetings. The mayor generally recognizes speakers for debate and motions, and rules on questions of council procedure. The power to rule on council procedure is especially significant because once rulings are made they are binding on the council, unless the council votes to challenge them.

A statutory city mayor can vote on all motions put before the council, but does not have the right to veto council actions. The right of the mayor to make and second motions is implied from the mayor's privilege of voting and taking part in regular council deliberations. The mayor has an obligation to be impartial and objective in conducting the meeting. Mayors may also call special meetings.

■ Declaring local emergencies

Only the mayor can declare a local emergency. A local emergency cannot last for more than three days except with the consent of the city council. A local emergency must receive prompt and general publicity. The clerk must promptly file any order or proclamation declaring, continuing or terminating the emergency.

A declaration of a local emergency invokes the response and recovery aspects of any local or interjurisdictional disaster plans and may authorize aid and assistance. No interjurisdictional agency or official may declare a local emergency unless expressly authorized by an agreement. An interjurisdictional disaster agency must provide aid and services in accordance with the agreement.

The information below on meetings and hearings is an excerpt from the League's Governing and Managing Information Memo on "Meetings of City Councils." The section on the open meeting law applies to all city councils, city boards, commissions, and other public bodies.

The League has many Information Memos on topics for city councils such as:

- Securing Payment of Utility Charges;
- Acquisition and Maintenance of City Streets;
- Liquor Licensing and Regulation, and more.

You can find these memos on the League's website at www.lmc.org. Or to get a FREE copy of any memo or to ask a question about city government, contact the League's Research Service at (800) 925-1122 or research@lmc.org.

Meetings and hearings

■ Meetings

A meeting is a gathering of a quorum of public officials to discuss, decide or receive information on matters over which they have authority. The members of the public usually do not speak at a meeting, although some city councils will occasionally recognize a member of the audience.

1. Types of meetings

There are basically two different types of meetings:

- **Regular meetings.** Regular meetings of a statutory city council are held at times established by council rules. A council will typically meet once a month on a particular day, although some councils may have regular meetings scheduled more frequently. Home rule charter cities should consult their charters and any council rules concerning the scheduling of regular meetings.
- **Special meetings.** Special meetings are meetings held at times or places that are different from the regularly scheduled meetings. These are often scheduled to deal with specific items that need to be addressed before the next regular meeting. Generally, any matter can be addressed at a special meeting that can be addressed at a regular meeting. There are different types of special meetings, such as emergency meetings and continued meetings, which are discussed in more detail in a later section of this memo.

2. First meeting of the year

There is no date set by statute for the first meeting of the year. In most statutory cities, the date is set by an ordinance establishing rules of procedure for the council. A home rule charter city should consult both its charter and any procedural rules the council has adopted.

The term of office for new statutory city council members begins on the first Monday in January. The first meeting is usually held on or shortly after this date. In the meantime, all previously chosen and qualified council members shall serve until their successors qualify. The first day of a new term in a home rule charter city is generally set by the charter.

The following must be done at the first meeting of the year:

- Appoint an acting mayor.
- Select an official newspaper.
- Select an official depository for city funds. (This must be done within 30 days of the start of the city's fiscal year.)

In addition, although not required by statute, many city councils will also do the following at the first meeting of the year:

- Review council's bylaws and make any needed changes.
- Assign committee duties to members.
- Approve official bonds that have been filed with the clerk.

Home rule charter cities may have additional requirements for their first meeting of the year in their charters.

■ Hearings

A public hearing is a meeting that is held where members of the public can express their opinions. The council is there to regulate the hearing and make sure that people who want to speak on the issue get the

opportunity. The council does not deliberate or discuss matters during the public-hearing portion of this type of meeting; instead, it listens to the public. Once the public-comment period is finished, the council will often wrap up the meeting.

In order to recess or continue a meeting of this sort, the council should not formally end the public-comment part of the hearing.

There are two types of hearings, those that are discretionary and those that are required by a specific statute, ordinance or charter provision.

1. Discretionary hearings

Many city councils will hold public hearings even when not legally required to do so. Generally, hearings of this type are for the purpose of allowing the public to comment on a specific issue. Such hearings can be helpful in raising concerns about an issue that the council may not have considered.

2. Required hearings

When a specific statute, ordinance or charter provision requires that the council hold a public hearing, the notice requirements must be followed carefully. Often there are special notice requirements that are more substantial than the notice that is needed for a simple special meeting. For example, hearings required for zoning ordinance amendments and special assessments have special notice requirements.

Following are several of the more common matters that require public hearings:

- Street vacation.
- Annexation by ordinance.
- Local improvement projects that will be paid for with special assessments.
- When special assessments are made to property.
- Storm sewer improvement district purchases and improvements of waterworks, sewers, drains, and storm sewers.
- Adoption of a housing redevelopment authority (HRA) resolution.
- Adoption of an economic development authority (EDA) enabling resolution.
- Sale of port authority land.
- Sale of EDA land.
- Increase of levy for an EDA.
- Continuation of a municipal liquor store after a net loss for two of three consecutive years.
- Adoption or amendment of a zoning ordinance.
- Subdivision applications.
- Granting of a conditional use permit.
- Adoption of a charter amendment by ordinance.

There are other situations that may require public hearings. Contact the League's Research Department at (651) 281-1200 or (800) 925-1122 for further information if you are unsure about a particular situation.

The open meeting law

The Minnesota open meeting law generally requires that all meetings of public bodies be open to the public.

This presumption of openness serves three basic purposes:

- To prohibit actions from being taken at a secret meeting where it is impossible for the interested public to become fully informed concerning decisions of public bodies or detect improper influences.
- To ensure the public's right to be informed.
- To afford the public an opportunity to present its views to the public body.

The open meeting law also contains some specific notice and record-keeping requirements, which are discussed in detail in later sections of this document.

■ Groups to which the law applies

The open meeting law applies to all governing bodies of any school district, unorganized territory, county, city, town or other public body, and to any committee, sub-committee, board, department or commission of a public body.

Thus, the law applies to meetings of all city councils, planning commissions, advisory boards, firefighter relief

associations, economic development authorities, and housing redevelopment authorities, among others.

The Minnesota Supreme Court has held, however, that the governing body of a municipal power agency, created under Minn. Stat. §§ 453.51-453.62, is not subject to the open meeting law because the Minnesota Legislature granted these agencies authority to conduct their affairs as private corporations.

■ What is a meeting?

There is no statutory definition of the term “meeting” for the purpose of the open meeting law. Minnesota courts have generally ruled that a meeting is a gathering of a quorum of public officials to discuss, decide or receive information on matters over which they have authority.

Because the term “meeting” has not been clearly defined, the issue of whether or not a meeting has been held must be decided on a case-by-case basis. Some examples of cases are discussed in further detail in a later section of this memo.

■ Gatherings to which the law applies

The open meeting law applies to any gathering of a quorum or more of public officials where the members discuss, decide or receive information as a group on issues relating to the official business of the public body.

A “quorum” is a majority of the members of a statutory city council. A majority of the qualified members of any board or commission also constitutes a quorum. Home rule charter cities may have different quorum requirements in their charters.

Thus, the open meeting law would apply to any of the following types of gatherings:

- Regular and special meetings.
- Public hearings.
- Executive sessions.
- Work sessions.
- Retreats.

■ Exceptions and the procedures to use them

There are some exceptions to the open meeting law. Under certain circumstances, some meetings may be closed. There are also some meetings that must be closed. Before a meeting can be closed under any of the exceptions, the council must state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed. All closed meetings, except those closed as permitted by the attorney-client privilege, must be electronically recorded at the expense of the public body. Unless otherwise provided by law, the recordings must be preserved for at least three years after the date of the meeting.

1. Meetings that may be closed

The public body may choose to close certain meetings. The following types of meetings may be closed:

- ***Meetings to consider strategies for labor negotiations under PELRA.*** Although a meeting to consider strategies for labor negotiations may be closed, the actual negotiations must be done at an open meeting if a quorum of the council is present.

Procedure. The following must be done to use this exception:

- Before closing the meeting, the council must decide to close the meeting by a majority vote at a public meeting.
- Before closing the meeting, the council must state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed.
- A written roll of all people present at the closed meeting must be available to the public after the closed meeting.
- The meeting must be tape-recorded.
- The recording must be kept for two years after the contract is signed.
- The recording becomes public after all labor agreements are signed by the city council for the current budget period.

If an action claiming that other public business was transacted at the closed meeting is brought during the time the tape is not public, the court will review the recording privately. If it finds no violation of the open meeting law, the action will be dismissed and the recording will be preserved in court records until it becomes available to the public. If the court determines there may have been a violation, the entire recording may be introduced at the trial. However, the court may issue appropriate protective orders

requested by either party.

- ***Meetings to evaluate the performance of an individual subject to the public body's authority.***

Procedure. The following must be done to use this exception:

- The public body must identify the individual to be evaluated prior to closing the meeting.
- The meeting must be open at the request of the individual who is the subject of the meeting, so some advance notice to the individual is needed in order to allow the individual to make an informed decision.
- Before closing the meeting, the council must state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed.
- The meeting must be electronically recorded, and the recording must be preserved for at least three years after the meeting.
- At the next open meeting, the public body must summarize its conclusions regarding the evaluation. The council should be careful not to release private or confidential data in its summary.

- ***Attorney-client privilege.*** Meetings between the governing body and its attorney to discuss active, threatened, or pending litigation may be closed when the balancing of the purposes served by the attorney-client privilege against those served by the open meeting law dictates the need for absolute confidentiality. The need for absolute confidentiality should relate to litigation strategy, and will usually arise only after a substantive decision on the underlying matter has been made. This privilege may not be abused to suppress public observations of the decision-making process, and does not include situations where the council will be receiving general legal opinions and advice on the strengths and weaknesses of a proposed underlying action that may give rise to future litigation.

Procedure. The following must be done to use this exception:

- Before closing the meeting, the council must state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed. The council should also describe how a balancing of the purposes of the attorney-client privilege against the purposes of the open meeting law demonstrates the need for absolute confidentiality.
- The council must actually communicate with its attorney at the meeting.

- ***Purchase or sale of property.*** A public body may close a meeting to: determine the asking price for real or personal property to be sold by the public body; review confidential or nonpublic appraisal data; develop or consider offers or counteroffers for the purchase or sale of real or personal property.

Procedure. The following must be done to use this exception:

- Before closing the meeting, the public body must state on the record the specific grounds for closing the meeting, describe the subject to be discussed, and identify the particular property that is the subject of the meeting.
- The meeting must be tape-recorded and the property must be identified on the tape. The recording must be preserved for eight years, and must be made available to the public after all property discussed at the meeting has been purchased or sold or after the public body has abandoned the purchase or sale.
- A list of council members and all other persons present at the closed meeting must be made available to the public after the closed meeting.
- The actual purchase or sale of the property must be approved at an open meeting, and the purchase or sale price is public data.

- ***Security Briefings.*** A meeting may be closed to receive security briefing and reports, to discuss issues related to security systems, to discuss emergency-response procedures and to discuss security deficiencies in or recommendations regarding public services, infrastructure, and facilities— if disclosure of the information would pose a danger to public safety or compromise security procedures or responses. Financial issues related to security matters must be discussed, and all related financial decisions must be made at an open meeting.

Procedure. The following must be done to use this exception:

- Before closing the meeting, the public body must state on the record the specific grounds for closing the meeting and describe the subject to be discussed. When describing the subject to be discussed, the public body must refer to the facilities, systems, procedures, services or infrastructure to be considered during the closed meeting.

— The closed meeting must be tape-recorded, and the recording must be preserved for at least four years.

2. Meetings that must be closed

There are some meetings that the law requires to be closed. The following meetings must be closed:

- ***Meetings for preliminary consideration of allegations or charges against an individual subject to the public body's authority.*** While the law permits the council to announce that it is closing a meeting to consider charges against an individual, it is still the best practice not to refer to that individual by name. The council should state only that it is closing the meeting to give preliminary consideration to allegations against someone subject to its authority. However, if someone requests the name of the employee who is the subject of the closed meeting, the name will probably have to be furnished since the existence and status of any complaints against an employee are public data.

Procedure. The following must be done to use this exception:

- Before closing the meeting, the council must state on the record the specific grounds for closing the meeting and describe the subject to be discussed.
- The meeting must be open at the request of the individual who is the subject of the meeting. Thus, the individual should be given advance notice of the existence and nature of the charges against him or her, so that the individual can make an informed decision.
- The meeting must be electronically recorded and the recording must be preserved for at least three years after the meeting.
- If the public body decides that discipline of any nature may be warranted regarding the specific charges, further meetings must be open.
(Note: There is a special provision dealing with allegations of law enforcement personnel misconduct; see next discussion*.)

- ***Portions of meetings at which any of the following data is discussed:***

- Data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults.
- *Internal affairs data relating to allegations of law enforcement personnel misconduct or active law enforcement investigative data.
- Educational data, health data, medical data, welfare data or mental health data that are not-public data.
- An individual's medical records governed by sections §§ 144.291 to 144.298.

Procedure. Before closing the meeting, the council must state on the record the specific grounds for closing the meeting and describe the subject to be discussed. The meeting must be electronically recorded, and the recording must be preserved for at least three years after the meeting.

■ Notice requirements

Public notice must be given of all meetings of a public body. The notice requirements differ depending on the type of meeting.

However, if a person receives actual notice of a meeting at least 24 hours before the meeting, all notice requirements under the open meeting law are satisfied, regardless of the method of receipt.

It should also be noted that statutory cities have some additional requirements for mailing notice to their council members regarding special meetings. There may also be additional notice requirements for home rule charter cities to consider. These cities should consult their charters for more information.

1. Regular meetings

A schedule of the regular meetings must be kept on file in the city office. If the city decides to hold a meeting at a different time or place, it must give the notice required for a special meeting.

Cities must keep a schedule of the regular meetings of the council on file at the primary office of the council. This requirement can be complied with by posting the regular meeting schedule in a convenient public location.

2. Special meetings

A special meeting is a meeting that is held at a time or location different from that of a regular meeting.

A city must post written notice of a special meeting on its principal bulletin board or on the door of its

meeting room if it does not have a bulletin board. If notice is posted on a bulletin board, the bulletin board must be located in a place that is reasonably accessible to the public. The notice must give the date, time, place, and purpose of the meeting. It must also be mailed to each individual who has filed a written request for notice of special meetings. As an alternative to posting the notice, the city can publish notice in the official newspaper at least three days before the meeting.

In statutory cities, the clerk must mail notice of special meetings to all council members at least one day before the meeting.

In calculating the number of days for providing notice, do not count the first day that the notice is given, but do count the last day. If the last day is a Saturday, Sunday or a legal holiday, that day is omitted from the calculation and the following day is considered the last day (unless, of course, it happens to be a Saturday, Sunday or legal holiday).

3. Emergency meetings

An “emergency meeting” is a special meeting called because of circumstances that, in the judgment of the public body, require immediate consideration by the public body. Posted or published notice of an emergency meeting is not required. However, the city must make a good faith effort to notify each news outlet that has filed a written request for notice. Notice must be given by telephone or any other method to notify members of the public body. The notice must include the subject of the meeting.

4. Recessed or continued meetings

No additional notice is needed for a recessed or continued meeting if all of the following criteria are met:

- The meeting is a recessed or continued session of a previous meeting.
- The time and place of the meeting was established during the previous meeting.
- The time and place of the meeting was recorded in the minutes of the previous meeting.

5. Closed meetings

The same notice requirements apply to closed meetings as to open meetings. Additionally, advance notice to an individual who will be the subject of such a meeting is needed under certain circumstances (such as to employees who are the subject of performance evaluations or disciplinary proceedings).

■ Written materials

At least one copy of the materials related to agenda items that are made available to the council at or before the meeting must also be made available for inspection by the public. However, this does not apply to not-public data or materials relating to the agenda items of a closed meeting.

■ Common problems in applying the law

There are many situations for which the open meeting law is unclear. This section provides an overview of some of the more common situations and how the law may be applied.

1. Data practices

Generally, meetings may not be closed to discuss data that is not public. However, the public body must close any part of a meeting at which certain types of not-public data are discussed (such as active law enforcement investigative data, police internal affairs data, medical records data, and certain victim, health, medical or welfare data).

If not-public data is discussed at an open meeting when the meeting is required to be closed, it is a violation of the open meeting law. Discussions of some types of not-public data may also be a violation of the Minnesota Government Data Practices Act (MGDPA). However, not-public data may generally be discussed at an open meeting without liability or penalty if both of the following criteria are met:

- The disclosure relates to a matter within the scope of the council’s authority.
- The disclosure is necessary to conduct the business or agenda item before the public body.

Data that is discussed at an open meeting retains its original classification under the MGDPA. However, a record of the meeting is public, regardless of the form. It is suggested that not-public data that is discussed at an open meeting not be specifically detailed in the minutes.

2. Interviews

The Minnesota Supreme Court has held that a school board must interview prospective employees

for administrative positions in open sessions. The court said that the absence of a statutory exception indicated that the Legislature had decided that such sessions should not be closed. The reasoning would seem to apply to city council interviews of prospective officers and employees as well, if a quorum is present.

In 1996, a district court found that it was not a violation of the open meeting law for candidates to be serially interviewed by members of a city council in one-on-one closed interviews. In this case, five city council members were present in the same building but each was conducting separate interviews in five different rooms. Because there was no quorum present in any of the rooms, the court found there was no meeting. The decision, however, was appealed.

In 1997, the Minnesota Court of Appeals reversed the district court's decision and remanded the case back to it for a factual determination on whether the city used the one-on-one interview process in order to avoid the requirements of the open meeting law. On remand, the district court found that the private interviews were not conducted for the purpose of avoiding public hearings. The case was again appealed. In an unpublished decision, the court of appeals agreed.

The implication of this decision appears to be that if serial meetings are held for the purpose of avoiding the requirements of the open meeting law, it will constitute a violation of the law. Cities that are considering holding private interviews with job applicants should first consult their city attorney.

3. Executive sessions

The attorney general has advised that executive sessions of a city council must be open to the public.

4. Committees and liaisons

The attorney general has advised that citizen advisory panels that are appointed by a governing body are also subject to the open meeting law.

Many city councils create committees to make recommendations to the council. Commonly, such committees will be responsible for researching a particular area and submitting a recommendation to the council for its approval. Such committees are usually advisory, and the council is still responsible for making the final decision.

City councils routinely appoint individual council members to act as liaisons between the council and particular committees. These types of meetings may also be subject to the open meeting law if the committee contains a quorum or more of the council or has decision-making authority. In addition, notice for a special council meeting may be needed if a quorum of the council will be present at the meeting and participating in the discussion.

For example, when a quorum of a city council attended a meeting of the city's planning commission, the Minnesota Court of Appeals ruled that there was a violation of the open meeting law, not because of the council members' attendance at the meeting, but because the council members conducted public business in conjunction with that meeting. Based on that decision, the attorney general has advised that mere attendance by additional council members at a meeting of a council committee held in compliance with the open meeting law would not constitute a special council meeting requiring separate notice. The attorney general warned, however, that the additional council members should not participate in committee discussions or deliberations absent a separate notice of a special city council meeting.

5. Chance or social gatherings

Chance or social gatherings of a quorum are not considered meetings under the open meeting law and are therefore exempt from it. However, a quorum may not, as a group, discuss or receive information on official business in any setting under the guise of a social gathering.

In 1982, the Minnesota Supreme Court held that a conversation between two council members over lunch regarding an application for a special-use permit did not violate the open meeting law because a quorum was not present.

6. Serial gatherings

The Minnesota Supreme Court has noted that meetings of less than a quorum of the public body held serially to avoid public hearings or to fashion agreement on an issue may violate the open meeting law. In short, this type of situation is a circumvention of the statute. As such, council members should avoid this type of practice.



A 1997 Minnesota Court of Appeals' decision also indicates that serial meetings could violate the open meeting law. In this decision, the court looked at a situation where the members of a city council conducted individual interviews of candidates for a city position in separate rooms. Although the district court found that no meetings had occurred because there was never a quorum of the council present, the court of appeals remanded the decision back to the district court for a determination of whether the council members had used this interview process for the purpose of avoiding the requirements of the open meeting law.

On remand, the district court found that the private interviews were not conducted for the purpose of avoiding the requirements of the open meeting law. This decision was also appealed, and the court of appeals, in a 1998 unpublished decision, agreed. A city that wants to hold private interviews with applicants for city employment should first consult with its city attorney.

7. Training sessions

The attorney general has advised that a city council's participation in a non-public training program devoted to developing skills is not covered by the open meeting law. However, the opinion also stated that if there were to be any discussions of city business by the attending members, either outside or during the training session, it could be seen as a violation of the open meeting law.

8. Technology trouble

The open meeting law does not address situations that may occur as a result of communication through telephone calls, letters, e-mail or similar technology. The Minnesota Supreme Court found that the open meeting law did not apply to letters or to telephone conversations between less than a quorum. While it is possible that a similar decision might be reached concerning the use of e-mail and other forms of technology, it should be stressed that if a quorum of members is involved in the communication, it would likely be considered to be a violation of the open meeting law.

In addition, serial discussions between less than a quorum of the council that are used to deliberate matters that should be dealt with at an open meeting would likely violate the open meeting law. Therefore, city councils and other groups to which the open meeting law applies should not use letters, telephone conversations, e-mail, and other such technology if the following circumstances exist:

- A quorum of the council is involved.
- Information relating to official city business is being discussed.

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■ Intentional violations of the open meeting law

A public officer who intentionally violates the open meeting law can be fined up to \$300. This fine may not be paid by the public body. In addition, a court may also award reasonable costs, disbursements, and attorney fees up to \$13,000 to the person who brought the violation to court.

If a plaintiff prevails in a lawsuit under the open meeting law, a court shall award reasonable attorney fees if the court determines the public body was the subject of a prior written advisory opinion from the commissioner of the Department of Administration, and the court finds that the opinion is directly related to the lawsuit and that the public body did not act in conformity with the opinion. A court is also required to give deference to the advisory opinion in a lawsuit brought to determine whether the open meeting law was violated.

If a public official is found to have intentionally violated this chapter in three or more separate actions, the public official must be removed from office and may not serve in any other capacity with that public body for a period of time equal to the term of office the person was serving. However, removal is only required if the conduct constitutes malfeasance or nonfeasance.

The statute does not address whether actions taken at an improper meeting would be invalid. The Minnesota Supreme Court once held that an attempted school district consolidation was fatally defective when the initiating resolution was adopted at a meeting that was not open to the public.

However, in more recent decisions, Minnesota courts have refused to invalidate actions taken at improperly closed meetings. In an unpublished decision, the court stated that "even a violation of the open meeting law will not invalidate actions taken at that meeting."

A public body may pay any costs, disbursements or attorney fees incurred by or awarded against any of its members for an action under the open meeting law.

Tables of motions

There are three basic types of motions: privileged motions, subsidiary motions, and main motions. Privileged motions take precedence over subsidiary motions; subsidiary motions take precedence over main motions. The following charts of motions are listed in order of precedence and are based upon *Robert's Rules of Order Newly Revised*, 10th Edition (2000):

Privileged motions—A privileged motion is a motion that does not relate to the business at hand. Such a motion usually deals with items that require immediate consideration.

Motion	Requires a second	Can interrupt speaker	Debatable	Amendable	Votes required to pass	Can be reconsidered
Fix a time to adjourn.	✓			✓	Majority	✓
To adjourn.	✓				Majority	
Recess. (A motion to take an intermission.)	✓			✓	Majority	
Raise a question of privilege. (A motion referring to a matter of personal concern to a member, e.g., asking to have the heat turned up, the windows opened, or the motion be stated again.)		✓			Usually, no vote is taken. The chair decides.	
Call for the orders of the day. (Forces the consideration of a postponed motion.)		✓			Usually, no vote is taken. The chair decides.	

Subsidiary motions—A subsidiary motion is a motion that assists the group in disposing of the main motion.

Motion	Requires a second	Can interrupt speaker	Debatable	Amendable	Votes required to pass	Can be reconsidered
Lay on the table. (To postpone discussion temporarily.)	✓				Majority	
Previous question or call for the question. (To stop debate and force an immediate vote.)	✓				2/3	✓
Postpone to a definite time.	✓		✓	✓	Majority	✓
Commit or refer. (A motion to refer to a smaller committee.)	✓		✓	✓	Majority	If group has not begun consideration of a question.
Amend.	✓		✓	✓	Majority	Y
Postpone indefinitely.	✓		✓		Majority	Affirmative vote only

Main motions—A main motion is a formal proposal that is made by a member that brings a particular matter before the group for consideration or action.

Motion	Requires a second	Can interrupt speaker	Debatable	Amendable	Votes required to pass	Can be reconsidered
Any general motion, resolution, or ordinance.	✓		✓	✓	Majority	✓
Take from the table.	✓				Majority	
Reconsider. (To reconsider a motion already passed/defeated.)	✓	✓	✓		Majority	
Appeal or challenge a ruling of the chair.	✓	✓	Depends		Majority	✓
Rescind. (A motion to strike out a previously adopted motion, resolution, bylaw, etc.)	✓		✓	✓	Varies, based on motion	Negative vote only



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STAFF MEMO

CITY PURCHASING CARD POLICY AND
RESOLUTION TO AUTHORIZE THE USE
OF A CITY CREDIT CARD

1. **BACKGROUND:** Minnesota Statute 471.382 states that the City Council may authorize the use of credit cards by City employees otherwise authorized to make purchases on behalf of the City. Allowing City staff to use purchasing/credit cards allows for more efficient purchasing and ease of making purchases at businesses that no longer allow open accounts. Furthermore, having a City VISA credit card allows City staff the flexibility to make online purchases for goods and services on behalf of the City, including the ability to register staff and Council for training events.
2. **DISCUSSION:** Currently, the City has two purchasing cards for Home Depot and BP Gas Station. It is in the best interest of the City to consider a resolution designating the individuals that are authorized to use these cards and to do this on an annual basis going forward. Furthermore, City staff has developed City Purchasing Card Guidelines which comply with State Statutes, Rules and the City of Spring Park's policies regarding City purchases.

Moreover, City staff is asking the City Council to consider adding a separate VISA credit card through Wells Fargo. This additional credit card will allow staff the flexibility to make purchases at retailers other than Home Depot and the BP Gas Station.

3. **FINANCIAL CONSIDERATIONS:** All cardholders must ensure that all City purchasing/credit cards may only be used for any single purchase that is \$2,000 or less and is made in accordance with the City of Spring Park's Procurement Policy, Section 1.2 Purchasing Guidelines.
4. **RECOMMENDATION:** Advise City staff of any additions or changes the Council would like to see added to the City Purchasing Card Policy and accompanying resolution and direct staff to add the item to a future regular City Council meeting agenda for consideration.

City of Spring Park Procurement Policy Adopted May 23, 2016

1.1 Definition

The term “procurement” as used in this Policy includes the procuring, purchasing, leasing, or renting of: (1) goods, supplies, equipment, and materials, (2) construction, maintenance, and consultant services, (3) architectural and engineering services, (4) social services, and (5) other services.

1.2 Purchasing Guidelines

<i>Value of Purchase (per project, not per item or service)</i>	<i>Authority Required</i>
Less than \$2,000	Staff Discretion if adequate funding is available in the budget.
\$2,000 - \$4,999	Requesting staff needs to complete a purchase order request, which will be included on the next council meeting agenda under the “New Business & Communication” section. If no council objection is expressed, or more information requested, the purchase order will be deemed approved.
\$5,000 - \$24,999	Requesting staff needs to complete a purchase order request, which will be included on the next council meeting agenda under the “New Business & Communication” section. Explicit council authority must be demonstrated by a majority vote in order for staff to proceed.
\$25,000 - \$99,999	Two quotes and council authorization in accordance with state law.
Greater than \$100,000	Sealed bids and council authorization in accordance with state law.

1.2.1 City Purchasing Card Policy

Summary

Purchasing/credit cards provide Spring Park City Staff the ability to effectively and efficiently make small, delegated purchases. The City of Spring Park utilizes the following purchasing/credit cards in the name of the City:

- One purchasing card issued through Home Depot
- One purchasing card issued through BP Gas Station
- One VISA credit card issued through Wells Fargo

The VISA credit card may be used for any single purchase that is \$2,000 or less and is made in accordance with the City of Spring Park's [Procurement Policy, Section 1.2 Purchasing Guidelines](#). The VISA credit card should be used sparingly and when the situation warrants it (e.g. on-line purchases, Staff/Council training registration, etc.)

The purchasing/credit cards must not be used for:

- Personal use
- Contracted items
- Splitting orders (multiple smaller transactions to same vendor for one purchase)
- Cash advances
- Unauthorized travel related expenses
- Services from a 1099 reportable vendor

Procedures

The purchasing/credit cards are to be used for City of Spring Park purchases only. Personal use is strictly prohibited. The purchasing/credit cards will be stored in a secure location with a sign-out sheet so that City staff are able to track the whereabouts of each card when they are not at City Hall.

Each year the City Council will designate certain City staff to be authorized cardholders to make purchases on behalf of the City of Spring Park. Those cardholders are required to do the following:

- Ensure all purchases comply with City policies and procedures.
- Ensure that any unauthorized individuals do not use the cards.
- Verify the vendor is not 1099 reportable.
- Request tax exemption providing a copy of the tax-exempt letter as requested.
- Obtain all sales receipts and related documents. All claims presented for payment must be in writing and itemized with original invoices or receipts.
 - Receipts must contain relevant details for each item purchased including quantities, description of the item(s) purchased, the price of each item, total charge amount and the vendor's name.
 - It is the cardholder's responsibility to ensure they have a receipt or paid invoice for each transaction on the purchasing/credit card.
- Ensure all transactions on the monthly statements are accurate. Monthly payment reports itemizing the charges and where they were coded to will be submitted to the City Council for approval.
- Report lost or stolen cards immediately to the purchasing/credit card service provider and to the City Administrator.
- An employee that inadvertently uses a City purchasing/credit card for personal use (e.g. accidentally mixes-up their personal card with the City card when paying at the register) should alert the City Administrator immediately. The employee will be personally liable

for the amount of purchase and will have their purchasing/credit card rights suspended for a period of 30 days.

1.3 Budgeted and Recurring Expenditures

Certain budgeted and routinely recurring expenditures that occur in the normal course of business do not need pre-approval from the council. Contractual services, supply purchases, and routine maintenance work that are predetermined and routinely conducted fall into this category. Examples of this include: street sweeping services; snow removal services; resupplying water treatment chemicals; lift station maintenance; annual sanitary sewer cleaning; and fire/police services pursuant to existing contracts.

1.4 Emergency Situations

Items and services deemed essential to the mitigation of an emergency situation do not require prior approval from the council, although a summary report detailing items and services purchased, and the justification for their need, shall be provided to the council after an emergency situation has concluded. For the purpose of this policy, an emergency situation shall be defined as one or more of the following:

1. A storm event which has resulted in a significant amount of damage to public or private property; or has limited travel within the city; or has created large amounts of storm debris; or has done considerable damage to public utilities, where the provision of critical utility services has been interrupted or discontinued for an indefinite period of time.
2. A failure or malfunction of any part of the public infrastructure that results in an interruption or discontinuation of essential utility services to one or more properties within the City of Spring Park. Examples of this include: a water main break; a sewer main blockage; or a broken high service pump.
3. A failure or malfunction of any part of the public infrastructure that creates a condition in which imminent damage to public or private property is highly likely unless the appropriate repairs are made immediately. Examples of this include: a lift station failure; development of a large pothole on a city street; or an overflowing stormwater catchment.
4. A City Hall mechanical failure or office equipment breakdown which creates a situation where the major day to day administrative responsibilities of staff cannot be performed in a timely manner. Examples of this include: A failure of the server; or a breakdown of the furnace system.
5. A public nuisance that poses an immediate threat to public health or safety.

1.5 Ethics / Relations with Vendors

The City of Spring Park holds its employees to the highest ethical standards. Purchases shall be conducted so they foster public confidence in the integrity of the city's procurement system,

and open and free competition among prospective suppliers. In keeping with this value, employees should avoid the following practices when making purchases on behalf of the city:

1. Circumventing competitive bidding requirements. Examples of this include: splitting purchases so that they can be made through several small purchases; using the emergency situation exemption when no true emergency exists; and using a “sole source” exemption when competition is available.
2. Denying one or more vendors the opportunity to bid on a contract. Examples of this include: Using unnecessarily restrictive specifications; pre-qualifying bidders on a discriminatory basis; removing companies from a bidders list without just cause; and requiring unnecessarily high bonding.
3. Giving favored vendors an unfair advantage. Examples of this include: providing vendors with information regarding their competition’s offers in advance of a bid opening; making information available to favored vendors and not to others; and giving un-favored vendors inaccurate or misleading information.
4. Accepting gifts from vendors. Minnesota Statute 471.895 prohibits government employees from receiving gifts except where they are included as part of the cost of a product, good, or service provided (such as a meal provided as part of a conference).

1.6 Conflicts of Interest

No employee, officer, board member, or agent of the City of Spring Park shall participate directly or indirectly in the selection, award, or administration of any contract if a conflict of interest, either real or apparent, would be involved. This type of conflict would be when one of the persons listed below has a financial or any other type of interest in a firm competing for the award.

1. An employee, officer, board member, or agent involved in making the award; or
2. His/her relative (including father, mother son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, partner, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister); or
3. An organization which employs or is negotiating to employ of any of the above.

Officers, employees, board members, and agents of the City of Spring Park are required to disclose any potential conflicts of interest and abide by the requirements as set forth in Minnesota State Law.

Approved:

**CITY OF SPRING PARK
SPRING PARK, MINNESOTA**

RESOLUTION 17-##

**RESOLUTION AUTHORIZING THE USE OF CREDIT CARDS BY DESIGNATED
CITY EMPLOYEES TO MAKE PURCHASES ON BEHALF OF THE CITY OF SPRING
PARK FOR 2017**

WHEREAS, pursuant to Minnesota Statute 471.382, the City Council may authorize the use of credit cards by City employees otherwise authorized to make purchases on behalf of the City; and

WHEREAS, the City of Spring Park has developed a City Purchasing Card Policy which complies with State Statutes, Rules and the City of Spring Park's policies regarding City purchases; and

WHEREAS, the authorization is subject to modification and revocation at any time by the Spring Park City Council;

NOW, THEREFORE, BE IT RESOLVED, that the following designated City staff are hereby authorized to use purchasing/credit cards in the name of the City of Spring Park:

- City Administrator
- City Clerk
- Office Assistant/Utility Billing Clerk
- Seasonal Maintenance Worker

BE IT FURTHER RESOLVED, that the aforementioned designated City staff are hereby authorized to use the following City credit cards to make purchases on behalf of the City of Spring Park:

- One purchasing card issued through Home Depot in the name of the City.
- One purchasing card issued through BP Gas Station in the name of the City.
- One VISA credit card issued through Wells Fargo in the name of the City.

ADOPTED by the City Council of the City of Spring Park this 1st day of May 2017.

Approved:

Jerome P. Rockvam, Mayor

Attest:

Theresa Schyma, City Clerk

ORDINANCE NO. 17 - _____

CITY OF SPRING PARK
HENNEPIN COUNTY, MINNESOTA

AN ORDINANCE AMENDING CHAPTER 22 OF THE SPRING PARK CITY CODE
BY RE-NUMBERING ARTICLE IV - CONTROLLED SUBSTANCES – TO ARTICLE V
AND BY CREATING A NEW ARTICLE IV - SEXUAL PREDATOR RESIDENCY
RESTRICTIONS

THE CITY COUNCIL OF THE CITY OF SPRING PARK, MINNESOTA ORDAINS AS FOLLOWS:

SECTION 1. Chapter 22 of the Spring Park City Code is hereby amended by re-numbering Article IV – Controlled Substances as Article V – Controlled Substances.

SECTION 2. Chapter 22 of the Spring Park City Code is hereby further amended by adding a new Article IV which reads as follows:

ARTICLE V. SEXUAL PREDATOR RESIDENCY RESTRICTIONS

Sec. 22-70 - Findings and Intent.

(a) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Studies have shown that ~~§~~sexual offenders are ~~extremely~~ likely to use physical violence and to repeat their offenses. ~~Most and many~~ sexual offenders commit many numerous offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly ~~exorbitant~~ exceedingly high.

(b) It is the intent of this ~~chapter~~ Article to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of its citizens by establishing areas around locations where children regularly congregate in concentrated numbers, wherein certain sexual predators are prohibited from establishing temporary or permanent residence.

Sec. 22-71 - Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Day Care Center – A facility licensed by the State of Minnesota in which care, supervision and training for individuals under the age of 18 is provided for part of a 24-hour period.

Designated Offender – Any person who has been categorized as a Level III predatory offender under Minnesota Statutes Section 244.052, a successor statute, or a similar statute from another state.

Park or Playground – Any land, including improvements, but excluding trails and sidewalks, operated by the city, county, or the Three Rivers Park District for the use by the general public as a recreational area.

Permanent Residence – A place where a person abides, lodges or resides for 14 or more consecutive days.

School – Any public or non-public educational institution that offers educational instruction to individuals under the age of 18.

Temporary Residence – A place, other than a person’s permanent residence, where a person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year or four or more consecutive or non-consecutive days during any month.

Sec. 70-279. - Residency Prohibition; Penalties; Exception.

(a) *Residency Prohibition.*

- (1) It is unlawful for any designated offender to establish a permanent residence or temporary residence within **2,000** feet of any school, day care center, park or playground.
- (2) For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence of the designated offender to the nearest outer property line of a school, day care center, park or playground.

(b) *Penalties.* A person who violates this section shall be punished by a fine not exceeding \$1,000, or by confinement for a term not exceeding 90 days, or by both such fine and confinement. Each day a person maintains a residence in violation of this ~~chapter~~ Article constitutes a separate violation.

(c) *Exceptions.* A designated offender residing within a prohibited area as described in Subsection (a) does not commit a violation of this Section if any of the following apply:

- (1) The designated offender established the permanent residence or temporary residence and reported and registered the residence pursuant to M.S. § 243.166, § 243.167, or successor statute, prior to the effective date of this Section.
- (2) The designated offender was a minor when he or she committed the offense and was not convicted as an adult.
- (3) The designated offender is a minor.

- (4) The school, day care center, park or playground within 2,000 feet of the designated offender's permanent residence or temporary residence was designated or opened after the designated offender established the permanent residence or temporary residence and reported and registered the residence pursuant to M.S. § 243.166 or § 243.167, or successor statute.
- (5) The residence is also the primary residence of the designated offender's parents, grandparents, siblings, spouse or adult children.
- (6) The residence is a property owned by the Minnesota Department of Corrections.

SECTION 3. This Ordinance is effective immediately upon adoption and publication, whether published in full or in summary form.

ADOPTED by the Spring Park City Council on this ____ day of May, 2017.

CITY OF SPRING PARK

Jerome P. Rockvam, Mayor

ATTEST:

Theresa Schyma, City Clerk

LOCAL

Cities are rushing to restrict sex offenders

Efforts to limit housing spill over to State Capitol.

By Maya Rao (<http://www.startribune.com/maya-rao/137958973/>) Star Tribune

APRIL 4, 2016 — 10:49PM

After a convicted child molester moved to town, Minnesota Lake passed a law effectively banning sex offenders from most of the small community.

Mahtomedi approved restrictions on where convicted rapists could live after hundreds of residents signed a petition demanding action.

And in Birchwood, the City Council held an emergency meeting in order to place stricter limits on sex offenders after learning that a pedophile was moving there.

Minnesota has seen a dramatic rise in municipal laws restricting where sex offenders can live after they have served their terms, setting up a fight at the State Capitol. Some legislators want to give local communities more control to enact new restrictions, but state corrections officials say that such ordinances can be ineffective and that they invite legal challenges.

A group of legislators has proposed a measure allowing cities and counties to enact tougher laws to keep Level 3 sex offenders — considered the most likely to reoffend — away from schools, parks and other places frequented by children.

The chief sponsor, Rep. Jim Newberger, R-Becker, says he hopes the bill will give the towns stronger legal standing to defend their sex-offender ordinances in court.

Communities are bracing for the release of more sex offenders from forced civil commitment in response to a federal ruling that declared the state's program unconstitutional.

U.S. District Judge Donovan Frank has ruled that the program is essentially permanent confinement with no clear path to release.

The issue is politically perilous for leaders of both parties, who must weigh the constitutional questions vs. the political blowback from releasing potentially dangerous offenders into the community.

Gov. Mark Dayton has ordered the state to fight Frank's ruling, saying it posed a risk to public safety.

The growing concerns have prompted more cities to adopt ordinances spelling out where convicted offenders are restricted from living.

"What they're worried about is that eventually someone will challenge it," said Newberger. "There's no statute to back it up right now."

'A testy situation'

Corrections Commissioner Tom Roy told legislators his agency is "very concerned" that the number of laws restricting sex offenders has doubled to 39 over the last year. He said studies showed that bans on where sex offenders live do not reduce the likelihood of them committing more crimes. They only create barriers to officers supervising them, he said, noting that Minnesota has seen the number of homeless offenders rise dramatically in the last decade.

"It is really a testy situation that we all face, and, intuitively, we would like to believe that drawing circles around cities will decrease recidivism ... but in actuality, it does not," Roy said.

Rep. Tony Cornish, R-Vernon Center, said during a hearing that people worried about their property values and children walking to the playground do not pay attention to statistics of recidivism. "You folks aren't doing a bang-up job right now of placing these people," he told Roy. And he criticized the move of a black rapist last year to Minnesota Lake, "a totally white, Anglo town. ... All of a sudden you've got all eyes on this poor person down there."

The city about 100 miles south of the Twin Cities swiftly passed an ordinance stating that it was unlawful for sex offenders to live within 2,000 feet of a school, child care center, public park, church, library or bus stop — a move that walled off much of the city's 2 square miles.

Sharon Grunzke, the city clerk, said residents were petrified about the first registered sex offender moving in. But the man has caused no problems after all, she said: "We hardly ever see him."

In December, Columbia Heights passed a one-year moratorium on any more sex offenders moving in while it studies whether to enact a permanent ordinance.

Mayor Gary Peterson said the city had no concerns about the measure's legalities. "You can't have sex offenders all over the place, and there are other communities that have none. ... We just wanted to stop it before it got to the point where it was really uncontrollable," he said.

Suburb fights back

North Minneapolis has accumulated a high concentration of sex offenders, prompting

pleas from its representatives to spread the burden around the metro area. Hennepin County stopped allowing offenders there a few years ago, a policy that Brooklyn Center has blamed for more convicted sexual predators spilling into its borders to the north.

Brooklyn Center officials testified in favor of the legislation the day after the city passed a law banning sex offenders from living within 2,000 feet of a school, playground or child care center.

"If the legislation passes, now we've got something we can point to and say, 'the state specifically says we can do that,'" said Brooklyn Center Mayor Tim Willson.

Rep. Joe Mullery, a DFLer who represents north Minneapolis, derided the legislation as "a very bad proposal. ... State law cannot override the U.S. Constitution." He said the protests by Brooklyn Center over having just six sex offenders is "ridiculous," and he called for more suburbs to take their fair share.

Last year, New York's appeals court determined that state laws overrode local prohibitions on where sex offenders could live.

Roy, the corrections commissioner, noted that courts in other states had been overturning residency restrictions on rapists and that Minnesota would have to address the matter soon.

"We can expect the courts to weigh in on this one, for sure," Roy told legislators.

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GOVERNING

THE STATES AND LOCALITIES

Where Will Sex Offenders Live?

Creating buffer zones around schools and other public places can make entire cities off-limits.

by [Ellen Perlman](#) | June 2006

Miami Beach wanted to keep sex offenders as far away from children as possible. So officials there came up with a plan that, on the surface, would seem to do the trick. An ordinance passed last year makes it unlawful for those convicted of a serious sex crime to live within 2,500 feet of any school, public bus stop, day care center, park, playground "or other place where children regularly congregate." The city could have saved some ink by simply writing: "No sexual predators allowed in Miami Beach." That, in essence, is the effect of the law. "The whole city is basically covered by this," says Mayor David Dermer. "As far as I'm concerned, it worked well."

When other cities heard about it, Dermer's office was deluged with calls. And so began the domino effect: As towns began to realize that neighboring jurisdictions might enact strict sex-offender residence rules, they scrambled to do the same, not wanting to be without an ordinance or have a relatively lax law that could serve as a welcome. More than 50 Florida municipalities, and 20 others from around the country, requested a copy of the ordinance from Miami Beach.

It's no surprise that public officials feel the need to do something. The nation was shocked last year when two Florida girls, nine-year-old Jessica Lunsford and 13-year-old Sarah Lunde, were murdered by registered sex offenders within a two-month span. In the wake of those and other widely publicized sex crimes in recent years, a race to clamp down on sex offenders picked up speed.

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Eighteen states now have laws that prohibit sex offenders from living within a certain distance--generally ranging between 1,000 to 2,500 feet--from schools, playgrounds and other facilities where children gather. In addition, dozens of localities are enacting their own restrictions. Lawmakers rarely argue against their passage.

Jurisdictions with existing buffer-zone laws are increasing the distance regulations or adding more facilities to the list of places that are off-limits. In addition to schools, parks and day-care centers, some also are including libraries and swimming pools. As in Miami Beach, the goal seems to be to post "no vacancy" signs at the border. "I've had folks say, 'I don't want them

anywhere in my town,'" notes Charles Onley, a research associate at the U.S. Department of Justice's Center for Sex Offender Management. "Everyone wants these folks somewhere else."

Which begs the question: Where will sex offenders live? It seems that few people really care, beyond the offenders' families and the people whose job it is to work with them. But perhaps they should.

Critics of buffer-zone laws say people are kidding themselves if they think their children are safer because sex offenders live a half a mile from a school instead of, say, a quarter of a mile. Or don't live in town at all. "If sex offenders out there want to commit a crime, it's not a matter of where they are living," says Dr. Fred Berlin, an associate professor of psychiatry at Johns Hopkins University School of Medicine who has been treating sex offenders for 25 years. "They will go somewhere with access to a victim. Much of public policy is enacted in response to a horrible crime," he adds.

But it may not be good public policy. In addition to the possibility of putting children in more danger by creating a false sense of security, such laws may also hamper law enforcement's ability to do its job effectively.

PUBLIC NOTIFICATION

The foundation for residence restrictions on sex offenders was laid more than a decade ago. In 1994, Congress passed a law compelling states to require convicted sex offenders to register their post-release address with local law enforcement agencies. This assisted parole and probation officers, who are responsible for supervising, monitoring and tracking them. But the public was out of the loop. Two years later, Megan's Law mandated community notification programs to provide citizens with information on sex offenders in their midst.

States were given discretion in deciding what information is "necessary to protect the public" and the methods for disseminating it. Forty-eight states currently provide registry data about sex offenders on the Web (Oregon will launch its site on July 1; South Dakota releases information through local law enforcement agencies).

The level of detail varies widely. Some states post information about only the most violent offenders and/or those considered most likely to re-offend. Others use broad crime categories that fail to differentiate among the types of sex offenses. For example, there are cases in which students in their late teens have been prosecuted for having consensual relationships with younger schoolmates. Those teens are unlikely to be stalking children at bus stops. But neighbors have no way of knowing whether it is a sexual predator or a teen Romeo living down the street.

Nor are the people who live near sex offenders necessarily getting constructive information about what to do with the knowledge that there's a sex offender next door. "Give me some guidance on what I ought to be doing about it," Berlin says. "That's not happening in a universal way."

Registries also have proven to be riddled with inaccuracies. In a Chicago crackdown, investigators went to more than 80 homes sex offenders listed as their addresses--only to find that more than three-quarters of them were abandoned buildings, empty lots or not the home of the offender.

But, when the listings are accurate and detailed, the posting of registry information on the Internet gives anyone, anywhere, the ability to know the precise location of tens of thousands of sex offenders as easily as the officers in charge of supervising them. If registered sex offenders worry about the humiliation or harassment of being listed, now they may fear for their lives.

In April, a Canadian man shot two registered sex offenders in their Maine homes. One had been convicted as a sexual predator. The other was 17 when he was arrested for being in a relationship with a 15- year-old girl, legally a minor, two weeks shy of her 16th birthday. The registry was taken down after the shootings, and the state is trying to figure out how to handle the registry in the future.

GOING UNDERGROUND

Such issues haven't stopped elected officials from introducing buffer-zone laws as a way to protect communities, particularly in reaction to a horrific sex crime. "I've heard it called feel-good legislation," says Mayor Dermer, but he doesn't buy it. "If you have a child, do you want a registered sex offender living next to you? Do you feel comfortable with that?" Miami Beach's law is tailored to pertain to the more serious crimes against minors, not, for example, the Romeo offenses.

While acknowledging that the law isn't a panacea and can't keep predators from driving into Miami Beach, Dermer does think it's one of several proactive measures a city can take to protect its children.

The Justice Department's Onley understands the sentiment but is concerned that if it has the effect of driving sex offenders underground, it will interfere with supervision of convicted felons on parole and probation, who are monitored on an individual basis. "Legislators are doing it with good motivation, but they may negate laws put there to locate these folks for public safety," he says.

Iowa's law, for example, has made as much as 90 percent of the land area in major cities off-limits to sex offenders. As a result, 21 sex offenders wound up grouped together in a down-at-the-heels motel outside of Cedar Rapids this spring. Others have resorted to living in their vehicles--essentially homeless and hopeless, which only puts more pressure on them to re-offend, criminal justice officials note. In Wellington, Florida, about the only place sex offenders can legally live is in a rural, equestrian area where homes sell for a half million dollars and up.

The constitutionality of Iowa's 2,000-foot restriction was challenged and the law struck down by a federal district judge in 2004. However, an appeals court subsequently ruled that sex offenders' rights were superseded by the state's compelling interest in protecting its citizens. In a separate

case, the Iowa Supreme Court also upheld the law. Although the Iowa Civil Liberties Union petitioned the U.S. Supreme Court to rule on the issue, the court declined to take the case.

If it becomes too difficult for sex offenders to find an affordable place to live, or they are harassed and forced to move, they may stop playing by the book and change residences without notifying authorities, register false addresses or simply disappear. The registry becomes less reliable and law enforcement has a harder time doing its job.

Since Iowa began enforcing the statewide residency law last September, nearly 300 sex offenders on the state's list of 6,000 are unaccounted for--twice as many as the previous 150 whose whereabouts were unknown.

Many people also don't realize that residence laws leave out a wide swath of potential sex offenders, including sexual deviants contemplating their first attack. In about 90 percent of the cases, predators know their victims. They might even live with them. In the vast majority of sex-crime cases involving minors, the attacker does not snatch random victims off the street. Rather, it is often a relative or a friend of the family who takes advantage of a minor. No buffer zone in the world is going to prevent that type of crime.

The Iowa County Attorneys Association, which has urged legislators to repeal the residency-restriction law, also points out that sex offenders often have families and children. In a significant number of cases, they have married or reunited with their victims. If a sex offender can't live in his home because of a buffer-zone law, the lives of spouses and children who have committed no crime are disrupted. In some cases, it could be for living, say, 2,300 feet from a school instead of 2,500.

ISOLATIONIST POLICIES

The debate over how to deal with known sex offenders in the community tends to pit people who treat or monitor sex offenders against just about everyone else. The number of advocacy groups fighting for the rights of sex offenders is small. Few elected officials openly oppose limiting where sex offenders live. Any attempt to make laws less harsh doesn't sit well with voters. "It's almost heresy to suggest anything that might be seen as supportive of helping a sex offender," says Johns Hopkins' Berlin. "They're so demonized."

Iowa prosecutors argue the state law requiring that registered sex offenders live 2,000 feet from schools and other places does not provide the protection intended. The Iowa County Attorneys Association listed 14 problems with the law. For one, research does not show that children are more likely to be victimized by strangers at the locations covered by the law than elsewhere. And research shows no correlation between residency restrictions and a reduction in sex offenses against children or an improvement in their safety.

In California, Assemblyman Mark Leno has called the rush to effectively banish offenders the "new McCarthyism." California has an initiative on the November ballot prohibiting registered sex offenders from residing within 2,000 feet of a school or park, along with provisions on GPS tracking and involuntary civil commitment after a prison term. Leno tried to get the residence

provision removed. He doesn't believe sex offenders are dangerous because of where they reside but where they hang out and how they pursue their victims. Senator Dean Florez also opposes the residence provision. He has said Californians will be voting on a "predator-dumping initiative," one that pushes sex offenders out of cities into rural areas.

This desire to drive the unwanted away is centuries old. "It's an old construct in criminal justice," says David D'Amora, director of the Center for the Treatment of Problem Sexual Behavior. "It's the creation of a ship of fools. You take people with criminal problems or the feeble-minded or those with mental illnesses and you load them on ships and send them out to sea where most of them would perish over time. We're re-creating some of it, essentially casting people out one way or the other."

In Colorado, there has been talk of creating a separate town for sex offenders, essentially treating them like lepers. "There is a lack of comprehension of the problem," D'Amora says. "There's a big history of segregating and isolating people that scare us, with the hope that it will solve the problem," he says. "We've learned that it doesn't. But with each new group, there's a new series of rationales. There's a tendency to recycle failed solutions." Granted, the group that society wants to banish is a scary bunch. But sending them out into some desert on their own will not make city folk safer, he insists. It will just make it harder for law enforcement to keep an eye on them.

Are there other policy options beyond residence requirements? Few laws address treatment. Pedophiles are sexually oriented toward pre- pubescent children. Prescription drugs can decrease those urges. "If the only thing we do is put them in prison, we've done nothing to erase the cravings or enhance the person's ability to resist acting upon them," says Berlin. "We still think we can treat them the same as the guy who robbed a bank or evaded income taxes. Punish him and he will stop doing it." Those offenders will get out of jail eventually. And their unnatural desires will be unchanged.

There clearly are no perfect solutions to the problem of how to deal with sex offenders once they return to society. But a growing number of academics, physicians and criminal-justice practitioners are warning policy makers that these well-intentioned residency rules may ultimately do more harm than good.



April 7, 2017

Mr. Dan Tolsma
City Administrator
City of Spring Park
4349 Warren Avenue
Spring Park, MN 55384

SUBJECT: Asset Management Plan Update

Dear Mr. Tolsma,

Thank you for communicating the Council proposal for payment of the sanitary sewer and storm sewer structure condition assessment work and recommencing work on the Asset Management Plan. We will accept the 12% deduct on the services provided under the two current outstanding invoices (#07687 and #09091). The deduct represents a total discount of \$3,964.38 which reduces the total amount owed from \$33,036.50 to \$29,072.12. I appreciate the willingness to work through this issue and look forward to completing a document that will allow the City to make sound infrastructure decisions in the future.

At this time we have completed an inventory of the City's infrastructure assets (sanitary sewer, water, storm sewer, streets, sidewalks, street lights and retaining walls). We propose the following schedule for completion of the Asset Management Plan:

- Week of April 24: Submit draft inventory and condition assessment to City Staff for review.
- Week of May 1: Meeting with City Staff to review inventory and condition assessment information.
- Week of May 29: Submit draft infrastructure maintenance/improvement plan with costs
- Week of June 5: Meeting with City Staff to review proposed improvements and costs, discuss phasing plan
- Week of June 19: Meeting with City Council to review draft Asset Management Plan
- Week of June 30: Complete Asset Management Plan

We propose to complete the work outlined above on an hourly basis for a not to exceed cost of \$21,293.50. Please let me know if you have any questions or would like to discuss.

Sincerely,

A handwritten signature in blue ink that reads "Mike Kuno".

Mike Kuno, PE
City Engineer



**2017 CITY COUNCIL
GOAL SETTING SURVEY**

What are your “big-picture” priorities for the City of Spring Park? (e.g. increased walkability, more commercial redevelopment, better infrastructure, outdoor storage, etc.)

Priority 1	
Priority 2	
Priority 3	
Priority 4	

What are some specific action steps that the City could take to accomplish these priorities?

	Priority 1	Priority 2	Priority 3	Priority 4
Action Step #1				
Action Step #2				
Action Step #3				
Action Step #4				
Action Step #5				

What are some specific “smaller-scale” projects that you would like to see accomplished in the City of Spring Park before the end of 2018? (e.g. plant more trees along Shoreline Drive, build a picnic pavilion at Thor Thompson Park, replace entrance sign at coffee cove, etc.)?

#1	
#2	
#3	
#4	
#5	
#6	