



MAYOR AND COUNCIL COMMUNICATION

DATE: 6/21/16

CONSENT

ITEM #: 20

AGENDA ITEM: Nuisance Abatement Order, 8139 38th St-Adopt Resolution

SUBMITTED BY: Mike Bent, Building Official

THROUGH: Mike Bent, Building Official

REVIEWED BY: Kristina Handt, City Administrator

SUMMARY AND ACTION REQUESTED: As part of its Consent Agenda, the City Council is asked to approve Resolution No. 2016-49 ordering the abatement of conditions creating a public nuisance at 8139 38th Street N. No specific motion is needed, as this is recommended to be part of the overall approval of the *Consent Agenda*.

STAFF REPORT: The property located at 8139 38th Street N has received multiple complaints from nearby neighbors. The property has been inspected and found excessive accumulation and piles of household garbage and rubbish located in multiple areas around the property creating a public nuisance per city ordinance and state statute. The Abatement Order Resolution has been prepared by the city attorney based on the information gathered during the investigation of this case.

RECOMMENDATION: Based on the aforementioned, the staff recommends the City Council approve Resolution No. 2016-49 ordering the Abatement of the property listed.

ATTACHMENTS:

1. Resolution No. 2016-49
2. Photos of the Property

**CITY OF LAKE ELMO
WASHINGTON COUNTY
MINNESOTA**

RESOLUTION NO. 2016-49

*A RESOLUTION ORDERING THE ABATEMENT OF CONDITIONS
CREATING A NUISANCE EXISTING ON THE PROPERTY LOCATED
AT 8139 38th STREET NORTH IN THE CITY OF LAKE ELMO*

WHEREAS, the property located at 8139 38th Street North contains a single family dwelling (the “Subject Property”); and

WHEREAS, the City Council received several complaints that there are large accumulations of junk and debris located in the yard of the Subject Property; and

WHEREAS, Section 96.07 of the City Code states that it is unlawful to store or accumulate any refuse, garbage, or rubbish on private property, unless such accumulation is in a container permitted, and the contents disposed of, under other provisions of the City Code; and

WHEREAS, by notice dated May 13, 2016, Wells Fargo, N.A., the owner of the Subject Property was ordered by the City to abate the nuisance conditions on the Subject Property within 10 days; and

WHEREAS, the owner has not abated the nuisance conditions; and

WHEREAS, pursuant to Section 96.11 of the City Code, the City Council may by majority vote order the abatement of a nuisance on any premises in violation of Chapter 96 of the City Code;

WHEREAS, the City Council is to issue a written notice to the owner, lessee, or occupant or any person having care or control of the property to abate the nuisance; and

WHEREAS, the City Council has determined that nuisance conditions do exist on the Subject Property in violation of the City Code; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo as follows:

1. The City Council hereby finds that there are nuisance conditions on the Subject Property that meet the definition of nuisance conditions set forth in Section 96.04 of the City Code.
2. The conditions on the Subject Property also constitute a public nuisance within the meaning of Minnesota Statutes Section 609.74 and City Code Section 96.03.

3. The City Attorney shall prepare an Order to Abate the Nuisance substantially similar to that attached hereto as Exhibit A.
4. The City Attorney is authorized to take all necessary legal steps to effectuate service of the Notice of Hearing on Order to Abate Nuisance in the manner required by Section 96.11 of the City Code.
5. If the nuisance is not abated within five days of the delivery of the notice required herein, the Building Official shall cause the nuisance to be abated. The Building Official is authorized to take all necessary steps to abate the nuisance. If the City is required to abate the nuisance, it shall recover all costs incurred as a result of the abatement as outlined in Section 96.12 of the City Code.

Passed and duly adopted this 21st day of June, 2016, by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

EXHIBIT A

Order to Abate Nuisance

TO: All owners, lessees, occupants and persons having control or care of the property described herein.

The City Council of the City of Lake Elmo hereby notifies you upon inspection that it has found large accumulations of junk and debris in the yard of the property located at: 8138 38th Street North, in the City of Lake Elmo, County of Washington, State of Minnesota which property is legally described as:

Lot 22, Bordners-Garner Farnettes, Lake Elmo, Minnesota

The City Council hereby orders that the nuisance be abated within five days of the date of delivery of this Order as required by Section 96.11 of the City Code. Failure to abate the nuisance within five days may result in the City taking action to abate the nuisance in accordance with Sections 96.11 and 96.12 of the City Code.

If the City is compelled to abate the nuisance, all necessary costs incurred by the City in undertaking the abatement will be sought in a civil action or assessed against the property pursuant to Section 96.12 of the City Code.

Dated: June __, 2016.

KENNEDY & GRAVEN, CHARTERED

By: _____

Sarah J. Sonsalla (#0313464)
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200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300

**ATTORNEYS FOR THE
CITY OF LAKE ELMO**

Property Complaint location 8139 38th Street N











