



STAFF REPORT

DATE: March 20, 2018
CONSENT #9

AGENDA ITEM: Assessment of Service Charges and Nuisance Abatement Ordinance
SUBMITTED BY: Kristina Handt, City Administrator

BACKGROUND:

In an effort to continue to improve our efficiency in dealing with nuisance properties, staff asked the City Attorney to draft an ordinance to allow the city to charge for nuisance removal and allow for assessment of those charges if they are not paid after billing. The last section in the ordinance amendment also looks to streamline the process in addressing nuisances by allowing the Building Official to abate the nuisance after providing notice to the property owner rather than having to wait for Council action.

ISSUE BEFORE COUNCIL:

Should the Council approve an ordinance to allow the assessment of charges for services and nuisance abatements?

PROPOSAL:

The first section of the proposed ordinance amendments would allow the city to charge certain services as allowed under state statute. Statute requires that the city first adopt an ordinance in order to do so. While there may be some items that the city will likely never use (pedestrian skyway for example) they are included in case anything should change in the future.

The second section of the proposed ordinance amendments would allow the city to charge for emergency services. Currently the city bills \$500 for structure fires as it is an allowance built into every insurance policy. If homeowner has no insurance we do not pursue it. While the ordinance mirrors what is currently in statute, staff is not proposing to change our current practices. We are just proposing the ordinance so that we have the proper documentation in place to bill the \$500.

The third section streamlines the process of abating a nuisance by allowing the Building Official to provide notice and then abate it if the property owner has not done so with a specified amount of time. Currently, it takes a majority vote of the City Council to order an abatement which does not allow us to respond as quickly as some members of the public would like us to.

FISCAL IMPACT:

Neutral as the City would be able to recover costs associated with abatement.

RECOMMENDATION:

If removed from the consent agenda:

“Motion to approve Ord No 08-203.”

AND

“Motion to Approve Resolution No 2018-024 Authorizing Summary Publication of Ord No 08-203.”

ATTACHMENTS:

- Ordinance No 08-203
- Resolution No 2018-024

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

ORDINANCE NO. 08-203

**AN ORDINANCE ADDING A NEW SECTION 11.02 TO THE LAKE ELMO CITY
CODE REGARDING SPECIAL ASSESSMENTS FOR SERVICES, ADDING A NEW
SECTION 11.03 TO THE LAKE ELMO CITY CODE REGARDING CHARGES FOR
EMERGENCY AND OTHER SERVICES, AND AMENDING CHAPTER 96 OF THE
LAKE ELMO CITY CODE RELATED TO NUISANCE ABATEMENT**

SECTION 1. The City Council of the City of Lake Elmo hereby adds a new Section 11.02 to the City Code which shall read as follows:

§ 11.02 CURRENT SERVICES; PERSONAL LIABILITY; SPECIAL ASSESSMENTS.

(A) *Authority.* This section is adopted pursuant to Minnesota Statutes Section 429.101.

(B) *Application.* This section applies to the following City services:

- (1) Snow, ice, or rubbish removal from sidewalks;
- (2) The repair of sidewalks and alleys;
- (3) Weed elimination from streets or private property;
- (4) Removal or elimination of public health or safety hazards from private property, excluding any structure included under the provisions of Minnesota Statutes Sections 463.15 to 463.26;
- (5) Installation or repair of water service lines, street sprinkling or other dust treatment of streets;
- (6) The trimming and care of trees and the removal of unsound trees from a street;
- (7) The treatment and removal of insect infested or diseased trees on private property;
- (8) The operation of a street lighting system;
- (9) The operation and maintenance of a fire protection system;
- (10) The operation and maintenance of a pedestrian skyway system;
- (11) Inspections relating to a City housing maintenance code violation;
- (12) The recovery of any disbursements under Minnesota Statutes Section 504B.445, subdivision 4, clause (5), including disbursements for payment

of utility bills and other services, even if provided by a third party, necessary to remedy violations as described in Minnesota Statutes Section 504B.445, subdivision 4, clause (2); and

- (13) The recovery of delinquent vacant building registration fees under a City program designed to identify and register vacant buildings.

(C) *Personal liability.* Except as otherwise provided by law, the owner of property on which or adjacent to which a current service has been performed under this section, is personally liable for the cost of the service. As soon as the service has been completed and the cost is determined, the Finance Director or other designated City official will prepare a bill and mail it to the owner and thereupon the amount will be due and payable in the office of the Finance Director.

(D) *Assessment.* On or before September 15th of each year, the Finance Director will list the total unpaid charges for current services against each separate lot or parcel to which they are attributable to under this section. The City Council may then levy the unpaid charges against the property as a special assessment under Minnesota Statutes Section 429.101 and other pertinent statutes, for certification to the county auditor, and collection along with current taxes the following year or in annual installments, not exceeding 10, as the Council determines.

SECTION 2. The City Council of the City of Lake Elmo hereby adds a new Section 11.03 to the City Code which shall read as follows:

§ 11.03 CHARGES FOR EMERGENCY SERVICES; COLLECTION; COLLECTION OF UNPAID SERVICE CHARGES AND FEES.

(A) *Authority.* This section is adopted pursuant to Minnesota Statutes Sections 415.01, 366.011, and 366.012.

(B) *Charges for emergency services; collection.* The City may impose a reasonable service charge for emergency services, including fire, rescue, medical, and related services provided by the City or contracted for by the City. If the service charge remains unpaid for 30 days after a notice of delinquency is sent to the recipient of the service or the recipient's representative or estate, the City or its contractor on behalf of the City may use any lawful means allowed to a private party for collection of an unsecured delinquent debt. The City may also use the authority of Section 11.03 (C) to collect unpaid service charges of this kind from delinquent recipients of services who are owners of taxable property in the City, or areas served by the City for emergency services.

The powers conferred by this section are in addition and supplemental to the powers conferred by any other law for a City to impose a service charge or assessment for a service provided by the City or contracted for by the City.

(C) *Collection of unpaid service charges and fees.* If the City is authorized to impose a service charge or fee on the owner, lessee, or occupant of property, or any of them, for a governmental service provided by the City, the City may certify to the county auditor, on or before October 15th for each year, any unpaid service charges or fees which shall then be collected together with property taxes levied against the property. A charge or fee may be certified to the auditor only if, on or before September 15th, the City has given written notice to the property owner

of its intention to certify the charge or fee to the auditor. The service charges or fees shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes. This section is in addition to any other law authorizing the collection of unpaid costs and service charges or fees.

SECTION 3. The City Council of the City of Lake Elmo hereby repeals Sections 96.11 and 96.12 of the City Code in their entirety.

SECTION 4. The City Council of the City of Lake Elmo hereby adds a new Section 96.11 to the City Code which shall read as follows:

§ 96.11. NUISANCE ABATEMENT PROCEDURE.

(A) *Notice.* Whenever the City determines that a public nuisance is being maintained or exists on a premises in the City, the Building Official or his or her designed representative may abate the nuisance after providing written notice to the affected record property owner.

(1) The notice shall be given to the affected record property owner by U.S. Mail or personal delivery. Refusal by the recipient to accept the notice shall not constitute a defense that the notice was not received. If the record owner is not able to be found, the City shall attach a copy of the notice or a door hanger with the same information to main entrance door of the principal structure on the property. The notice shall state the following information:

- (a) The date;
- (b) The address or legal description of the property;
- (c) A description of the nuisance and the section or sections of the City Code which was/were violated;
- (d) The steps to be taken in order to abate the nuisance;
- (e) The date by which the nuisance must be abated (grass and weed violations must be abated within five calendar days from the date of the notice);
- (f) That if the nuisance is not abated by the date stated, the City will abate the nuisance and the costs incurred by the City will be charged, and if left unpaid, will be certified to the county auditor for collection with property taxes or specially assessed;
- (g) That the recipient has the right to request a hearing before the City Council and the date the hearing request must be made by; and
- (h) A description of the penalties that may apply if the condition is not corrected.

(B) *Abatement*. If the nuisance is not abated by the date stated in the notice and no hearing has been requested, the City may abate the nuisance. City staff must keep a record of the total cost of the abatement attributable to the property and report the information to the City Administrator.

(C) *Abatement charges*. When the abatement has been completed and the cost determined, the City shall prepare a bill and mail it to the record owner and thereupon the amount shall be immediately due and payable. If the record owner fails to pay the bill, the total charges may be certified by the City to the county auditor for collection with property taxes as set forth in Section 11.03 (C) of this code or specially assessed in accordance with Minnesota Statutes Sections 429.101 and 429.061, whichever may be applicable.

(D) *Emergency abatement*. Nothing in this subchapter shall prevent the City, without notice or other process, from immediately abating any nuisance condition in an emergency situation which poses an imminent and serious hazard to the public health, safety, or welfare. To proceed with immediate abatement, the City official shall determine that a public nuisance exists or is being maintained on the premises and that delay in abatement will unreasonably endanger the public health, safety, or welfare. If at all possible, the City official shall attempt to notify the record owner of the nature of the nuisance and the abatement prior to the abatement. If notification prior to abatement is not possible, the City official shall notify the record owner as soon as practicable after abatement.

SECTION 5. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 6. Adoption Date. This Ordinance 08-203 was adopted on this _____ day of ____ 2018, by a vote of ____ Ayes and ____ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance ____ was published on the ____ day of _____, 2018.

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

RESOLUTION NO. 2018-024

**RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 08-203 BY TITLE
AND SUMMARY**

WHEREAS, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-203, an ordinance adding section to the City Code regarding special assessments for services and charges for emergency services and amending Chapter 96 of the Lake Elmo Code regarding nuisance abatement; and

WHEREAS, the ordinance is lengthy; and

WHEREAS, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

WHEREAS, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo, that the City Clerk shall cause the following summary of Ordinance No. 08-203 to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-203, which makes the following changes to City Code:

- Adds section 11.02 to the City Code which allows the city to charges for services and assess them to the property if not paid.
- Adds section 11.03 to the City Code which allows the City to charge for emergency services.
- Amends Chapter 96 of the City Code to allow the Building Official to abate a nuisance after notice to the property owner.

The full text of Ordinance No. 08-XX is available for inspection at Lake Elmo city hall during regular business hours.

BE IT FURTHER RESOLVED by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance at City Hall for public inspection and that a full copy of the ordinance be placed in a public location within the City.

Dated: March 20, 2018

Mayor Mike Pearson

ATTEST:

Julie Johnson, City Clerk

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member
_____ and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against same:

Whereupon said resolution was declared duly passed and adopted.