

CITY OF MINNETRISTA



CITY COUNCIL AGENDA ITEM

Subject: 9550 West Hill Road Abatement Discussion

Prepared By: Jasper Kruggel, City Administrator

Meeting Date: March 16, 2026

Issue: Staff is providing an update on the potential nuisance abatement procedures related to 9550 West Hill Road.

Overview: Attached you will find a memo from legal counsel related to the process to potentially abate a property in Minnetrista. Please review the memo and engage legal counsel with any questions about the process at the meeting.

Recommended City Council Action: Staff would like City Council to review the attached memo from legal counsel related to the process required to potentially abate the property at 9550 West Hill Road.

Mission Statement:

The City of Minnetrista will deliver quality services in a cost effective and innovative manner and provide opportunities for a high quality of life while protecting natural resources and maintaining a rural character.

Kennedy

&

Graven

CHARTERED

Sarah J. Sonsalla
Fifth Street Towers, Suite 700
150 South Fifth Street
Minneapolis MN 55402

(612) 337-9284 telephone
(612) 337-9310 fax
ssonsalla@kennedy-graven.com
<http://www.kennedy-graven.com>

**DRAFT
MEMORANDUM**

To: Jasper Kruggel, City Administrator
Craig Squires, Director of Public Safety

From: Sarah Sonsalla, City Attorney

Date: March 10, 2026

Re: Code Compliance/Enforcement Options/Process

Introduction

This memorandum seeks to outline potential options that the City may want to consider with respect to certain properties which are not compliant with the City's code. The City has recently received complaints about non-compliance with respect to two properties located within the City. While some of these options may be available to address those properties, these options may also be generally available for addressing issues raised by other properties as well.

What is included below highlights several civil enforcement options that the City may choose to consider and the process by which the City must follow. Also included are estimates related to the potential cost, in legal fees, for undertaking such efforts. Again, because each situation is unique, these estimates may differ significantly, depending on a number of factors. This memorandum also does not seek to address the criminal options which may be available to the City. While each violation of the code is typically considered a misdemeanor, criminal prosecution of such violations often does not resolve the underlying issue (i.e. cleaning up the property).

Administrative Search Warrant

Prior to proceeding with any of the below options, if the City is unaware of all of the conditions/potential code violations on the property, it should seek an administrative search warrant in order to allow it to inspect the property. Inspection of the property is important in order

for the City to determine exactly what civil enforcement option it should utilize (i.e. are there unlicensed vehicles or hazardous buildings on the property?). In order to obtain an administrative search warrant, the City must follow the following process:

1. Request the property owner's permission to inspect the property on at least two occasions. Some property owners will be cooperative and allow the City to inspect their properties without having to obtain an administrative search warrant.
2. If the property owner refuses to allow the City to inspect the property, the City should not go on the property as it does not have permission. Instead, it should apply for an administrative search warrant. An administrative search warrant is issued by a judge and allows designated people to enter the property for certain purposes specified in the warrant. An example of an administrative search warrant application is attached to this memorandum. The administrative search warrant application must contain the following elements:
 - a. Suspected code violations and the need to inspect the property (and whether there is a need to inspect the interior of any of the buildings on the property).
 - b. Legal authority to request an administrative search warrant.
 - c. A description of the scope of the administrative search warrant being requested.
 - Who from the City needs access to the property?
 - What will the City do on the property (i.e. take photos, take measurements)?
 - When will the inspection take place (usually on a business day during business hours)?
 - Whether the City needs to use reasonable force to access the property/interior of any buildings.
3. Once the administrative search warrant application is signed by the City official who will be executing the warrant, it should be brought by the City Attorney's office to the signing judge for Hennepin County. There is always a signing judge available at Hennepin County. The City official who signed the application should go with the attorney in case there are any questions. The judge will review the warrant application, ask questions, and hopefully sign the warrant that is attached to the application.
4. Once the judge signs the warrant, the City may use the warrant to enter the property. The City is only authorized to inspect the property and may not complete any abatement activities on the property. It is important that the City inspects the property thoroughly and documents everything that needs to be done to bring the property into compliance.

Nuisance Abatement Proceedings

Once the City has had the opportunity to inspect the property, it may decide that it would like to bring a nuisance abatement proceeding in order to clean up the property.

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

Section 1510.09 of the City Code authorizes the City to be able to abate public nuisances. A public nuisance under Section 1510.05 of the City Code includes the following that may be applicable to the properties at issue: garbage and rubbish accumulations, noxious weeds/overgrown vegetation, accumulations of disused furniture, appliances, machinery, vehicles, recreational vehicles, and excessive exterior storage that is open and obvious to neighboring properties or to the general public from public areas.

The following are the steps that the City must take in order to abate the public nuisance (with the exception of hazardous buildings and vehicles which have a different process):

1. The City must notify the property owner in writing of the public nuisance and that the nuisance must be terminated or abated. The notice of the violation must specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated.
2. If the notice of violation is not completed within the time specified (which should be at least 30 days), City staff must report that information to the City Council.
3. The City Council must give the property owner notice and an opportunity to be heard by the Council. Written notice must be given to the property owner either by personal service or by certified or registered mail.
4. After this occurs, the City Council may make a determination whether the conditions on the property are a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the nuisance will be abated by the City.
5. At this point, the City will need to decide if it should abate the nuisance conditions without a court order or if a court order is needed. If the City wants to abate the nuisance conditions on its own, it will need to provide the property owners with the opportunity to contest the nuisance finding with the City Council or a selected neutral party. The City will also need to create an inventory of all property collected, notice of where property can be reclaimed, and the date by which it must be reclaimed, or it will be disposed of (sold or destroyed) by the City. In addition, the City will need to obtain a warrant in order to enter onto the property to abate the nuisance conditions.

¹ Minnetrista City Code, Section 1510.01 – 1501.1510.11

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

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

If successful through this process, the City can abate the nuisance and recover its costs of abatement through certification and collection with property taxes.

Potential Legal Costs – \$3000-\$7,000 without contest or > \$40,000 or more if a full trial is required.

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

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

Hazardous Building/Property Proceeding

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

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

² Minn. Stat § 617.81, subd. 2.

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

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

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

The costs associated with a hazardous building/property action can vary dramatically. Costs for carrying out a hazardous building/property proceeding through a default scenario may fall in the \$3,000-\$7,000 range, while costs for a full trial on a hazardous building can rise significantly to \$40,000 or more. Of course, some or all of those costs may be recoverable, but there is no guarantee that the City will certainly recover all of its legal fees in bringing such an action.

Potential Costs - \$3,000-\$7,000 without contest or > \$40,000 if a full trial is required.

Towing Authority

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

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

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

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

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

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

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

Eminent Domain

Under very limited circumstances, a city may exercise its eminent domain authority to condemn a problem property. Under this process, the City would need to pay the owner “reasonable compensation” for the property and it would need to be taken for a public use. In the code compliance area, the City would not be taking the property for a public use but instead would be responding to known or suspected code violations. Invoking eminent domain in such a manner may raise issues with the public-use doctrine. Condemnation also requires that the City Council find the property to be a public nuisance, as defined in state law.⁴

It is typical for there to be disagreement over what constitutes “reasonable compensation” in condemnation proceedings. Condemnation also requires a formal court proceeding. Because of this, there is a potential risk that the process becomes drawn out and the City incurs additional costs. Unlike a hazardous building/property proceeding, the City would not be entitled to reimbursement for its legal costs associated with such an action. However, the City would end up being the owner of the property which may have some resale value and give the City control over the property.

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

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

Other Agency Involvement

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

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

Conclusion

Many of the options available to the City involve the potential for formal court proceedings. While many of the avenues described herein follow similar processes, they vary slightly. It should

⁴ Minn. Stat. § 609.74.

be understood that the rough cost estimates offered are for legal and related expenses only and do not include the actual cost of the abatement (clean up) which can be fairly significant.