

FAIRMONT CITY COUNCIL AGENDA

1. CALL TO ORDER -

- Regular meeting of the Fairmont City Council held on

MONDAY, AUGUST 13, 2018

at **5:30 p.m.** in the City Hall Council Chambers

2. ROLL CALL -

Mayor Foster

Councilors:

Cyphers

Hawkins

Hasek

Peters

Zarling

3. DETERMINATION OF QUORUM -

4. PLEDGE OF ALLEGIANCE -

5. APPROVAL OF AGENDA -

6. READING OF MINUTES –

6.1 Minutes of Regular Meeting, July 23, 2018

(01-02)

7. OPEN DISCUSSION

8. RECOGNITIONS/PRESENTATIONS -

9. SCHEDULED HEARINGS –

10. ADMINISTRATIVE APPEALS –

11. FINANCIAL REPORTS –

12. REPORTS OF BOARDS, COMMITTEES, AND DEPARTMENT HEADS –

13. LICENSES AND PERMITS –

13.1 Renewal of On Sale Wine License & On Sale 3.2 Beer License for Dairy Freeze, d/b/a Deep Freeze (03)

14. OLD BUSINESS –

15. NEW BUSINESS –

15.1 Administrative Citation Fee Schedule (04)

15.1a Resolution 2018-22 (05-07)

15.2 Administrative Hearing Officers (08)

15.2a Resolution 2018-23 (09)

15.3 Administrative Citations (10)

15.3a Ordinance 2018-16 (11-15)

15.3b Public Hearing Notice (16)

15.4 House Demolition Assistance (17)

15.4a Application and estimate (18-21)

15.4b Property information and photos (22-24)

16. REGULAR AND LIQUOR DISPENSARY BILLS –

17. STATUS REPORTS/COUNCIL/STAFF INFORMATION

18. ADJOURNMENT –

ADDITIONAL ATTACHMENTS –

The minutes of the Fairmont City Council meeting held on Monday, July 23, 2018 at the City Hall Council Chambers.

Mayor Deborah Foster called the meeting to order at 5:30 p.m.

Mayor Deborah Foster, Council Members Ruth Cyphers, Jim Zarling, Tom Hawkins, Wayne Hasek and Bruce Peters were present. Also in attendance: City Administrator Mike Humpal, Public Works Director/City Engineer Troy Nemmers, City Attorney Elizabeth W. Bloomquist, City Clerk Patricia J. Monsen and Chief of Police Mike Hunter.

It was moved by Council Member Peters to approve the agenda as presented. Council Member Hasek seconded the motion and the motion carried.

It was moved by Council Member Zarling, seconded by Council Member Cyphers and carried to approve the minutes of the regular City Council meeting of July 9, 2018.

Brian Lindh of 1032 Shoreacres Drive requested to speak during Open Discussion but was not sure if he would be able to get to the council meeting in time. Mayor Foster asked if all would agree to move Open Discussion to the end of the meeting to afford Mr. Lindh more time to get to the meeting. All agreed.

The June 30, 2018 investment report was presented by City Administrator Mike Humpal.

Council Member Hasek made a motion to approve an Event Permit for the Cedar Creek Disc Golf Association Tournament and camping at Cedar Creek Park for August 17-19, 2018. Council Member Peters seconded the motion and the motion carried.

Council Member Cyphers made a motion to approve an Event Permit for Movie in the Park on August 25, 2018. This event is sponsored by American Family Insurance and True Value. The event is free to all. Council Member Hasek seconded the motion and the motion carried.

Council Member Peters made a motion to approve the permit application for outdoor public fireworks display for the performance of Hairball at the Martin County Fair on August 16, 2018. Council Member Cyphers seconded the motion and the motion carried.

Council Member Peters made a motion to approve the application for a solicitor's license submitted by Alise Duce with Southwestern Advantage. Council Member Zarling seconded the motion and the motion carried.

Council Member Hasek made a motion to authorize goose hunting in the city limits of Fairmont on private land zoned Ag Transition during goose hunting season as set by the State of Minnesota. Council Member Zarling seconded the motion and the motion carried.

Council Member Peters made a motion to approve the Debt Policy prepared with the assistance of Northland Securities. Council Member Hawkins seconded the motion and the motion carried.

Council Member Hawkins made a motion to contract with WSB & Associates for the update to Fairmont's Comprehensive Land Use Plan at a base price of \$55,674.00. Council Member Cyphers seconded the motion and the motion carried.

Council Member Peters made a motion to adopt **Resolution 2018-19** awarding the 2018-A Improvement Project, Canyon Drive Storm Sewer, to Holtmeier Construction of Mankato, Minnesota in the amount of \$888,243.61. Council Member Zarling seconded the motion. On roll call: Council Members Peters, Zarling, Cyphers, Hasek and Hawkins all voted aye. No one voted nay. Mayor Foster declared said motion passed.

Council Member Hawkins made a motion to adopt **Resolution 2018-20** approving advertising of the 2018-B, Cedar Creek Park multi-use trail. Council Member Cyphers seconded the motion. On roll call: Council Members Zarling, Cyphers and Hawkins all voted aye. Council Members Hasek and Peters voted nay. Mayor Foster declared said motion passed.

Council Member Peters made a motion to authorizing the Mayor to sign Task Order #8 with KLJ for professional services at the airport. Council Member Hawkins seconded the motion and the motion carried.

Council Member Zarling made a motion to adopt **Resolution 2018-21** awarding the 2018-C Improvement Project, Sanitary Sewer Lining Project to Hydro Klean of Des Moines, Iowa in the amount of \$139,802.40. Council Member Hasek seconded the motion. On roll call: Council Members Cyphers, Hasek, Hawkins, Peters and Zarling all voted aye. No one voted nay. Mayor Foster declared said motion passed.

Council Member Peters made a motion to approve the payment of the July 2018 bills in the amount of \$1,016,490.84. Council Member Zarling seconded the motion and the motion carried.

Brian Lindh was unable to attend the council meeting, so Humpal read a letter written by Mr. Lindh outlining his concerns regarding noise control from outside bands in residential zones. There was much discussion and the council directed City Staff to research what other lakeside communities do regarding noise in this type of situation.

Council Member Cyphers asked Nemmers what the status was on patching city roads and filling pot holes. Nemmers said they were planning to start patching pot holes tomorrow.

Mayor Foster invited all citizens to participate in the next "Saturday Morning with the City" scheduled for August 18, 2018 at 10:00 a.m. in Gomsrud Park. The topic is Fairmont's Economy.

A motion was made by Council Member Zarling, seconded by Council Member Peters and carried to adjourn the meeting at 6:16 p.m.


Deborah J. Foster
Mayor

ATTEST:

Patricia J. Monsen, City Clerk

MEETING DATE: August 13, 2018

SUBJECT: Renewal of On Sale Wine License and On Sale 3.2 Beer License for Dairy Freeze
d/b/a Deep Freeze

REVIEWED BY: Mike Humpal, CEcD, City Administrator 

SUBJECT INITIATION BY:

<input checked="" type="checkbox"/>	Petition	<input type="checkbox"/>	Board	<input type="checkbox"/>	Staff	<input type="checkbox"/>	Council	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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SUBJECT BACKGROUND: Mike Humpal, CEcD, City Administrator

INTRODUCED BY: Mike Humpal, CEcD, City Administrator

COUNCIL LIAISON:

TYPE OF ACTION:

<input checked="" type="checkbox"/>	Motion (Voice Vote)	<input type="checkbox"/>	Resolution (Roll Call)	<input type="checkbox"/>	Discussion
<input type="checkbox"/>	Ordinance 1 st Reading (Introduction only)	<input type="checkbox"/>	Set Public Hearing (Motion)	<input type="checkbox"/>	Information Only
<input type="checkbox"/>	Ordinance 2 nd Reading (Roll call)	<input type="checkbox"/>	Hold Public Hearing (Motion to close)	<input type="checkbox"/>	

RECOMMENED ACTION BY:

<input checked="" type="checkbox"/>	City Staff	<input type="checkbox"/>	Board	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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<input type="checkbox"/>	Issuance	<input checked="" type="checkbox"/>	Approval	<input type="checkbox"/>	Authorization	<input type="checkbox"/>	No recommendation
<input type="checkbox"/>	Denial	<input type="checkbox"/>	Rejection	<input type="checkbox"/>	No action needed	<input type="checkbox"/>	

STATEMENT: David Hanson, Dairy Freeze, Inc., d/b/a Deep Freeze at 1506 Albion Avenue has made application for the renewal of an On-Sale Wine License and 3.2 Beer License. The Deep Freeze will be open from September through April of each year and is a restaurant with a full menu. Staff is recommending Council approval. All paperwork, payment of the license fees and a background investigation has been conducted.

MOTION: To approve the renewal of an On-Sale Wine License and On-Sale 3.2 Beer License for David Hanson, Dairy Freeze, Inc., d/b/a Deep Freeze.

VOTE REQUIRED: Simple majority

ATTACHMENTS:

1. _____
2. _____

Council Action: _____ Date: _____

CITY OF FAIRMONT----AGENDA CONTROL SHEET----AGENDA ITEM NO. 15.1

MEETING DATE: August 13, 2018

SUBJECT: Administrative Citation Fee Schedule

REVIEWED BY: Mike Humpal, CEcD, City Administrator 

SUBJECT INITIATION BY:

<input type="checkbox"/>	Petition	<input type="checkbox"/>	Board	<input checked="" type="checkbox"/>	Staff	<input type="checkbox"/>	Council	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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SUBJECT BACKGROUND: Mike Humpal, CEcD, City Administrator

INTRODUCED BY: Mike Humpal, CEcD, City Administrator

COUNCIL LIAISON:

TYPE OF ACTION:

<input checked="" type="checkbox"/>	Motion (Voice Vote)	<input checked="" type="checkbox"/>	Resolution (Roll Call)	<input type="checkbox"/>	Discussion
<input type="checkbox"/>	Ordinance 1 st Reading (Introduction only)	<input type="checkbox"/>	Set Public Hearing (Motion)	<input type="checkbox"/>	Information Only
<input type="checkbox"/>	Ordinance 2 nd Reading (Roll call)	<input type="checkbox"/>	Hold Public Hearing (Motion to close)	<input type="checkbox"/>	

RECOMMENED ACTION BY:

<input checked="" type="checkbox"/>	City Staff	<input type="checkbox"/>	Board	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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<input type="checkbox"/>	Issuance	<input checked="" type="checkbox"/>	Approval	<input type="checkbox"/>	Authorization	<input type="checkbox"/>	No recommendation
<input type="checkbox"/>	Denial	<input type="checkbox"/>	Rejection	<input type="checkbox"/>	No action needed	<input type="checkbox"/>	

STATEMENT: In order to implement the process of administrative citations, the City Council needs to adopt an Administrative Citation Fee Schedule.

MOTION: To adopt Resolution 2018-22, Administrative Citation Fee Schedule

VOTE REQUIRED: Simple majority – Roll call

ATTACHMENTS:

1. Resolution 2018-22
2. _____
3. _____

Council Action: _____ Date: _____

RESOLUTION 2018-22

A RESOLUTION ADOPTING A ADMINISTRATIVE CITATION FEE SCHEDULE

WHEREAS, the City Council desires to implement the process of Administrative Citations as an alternative method of enforcing the City Code; and,

WHEREAS, the City Council needs to adopt a schedule of fines for offenses.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Fairmont, Minnesota, as follows:

That the following fine schedule is hereby adopted:

FINE SCHEDULE					
	VIOLATION	1ST	2ND	3RD	
<u>ANIMALS</u>					
4-21	Running at Large	\$50.00	\$75.00	\$100.00	
4-24	Nuisances	\$50.00	\$75.00	\$100.00	
4-25	Sanitation	\$50.00	\$75.00	\$100.00	
	All Other	\$50.00	\$75.00	\$100.00	
<u>BULDING CODE</u>					
6-18	Enforcement	\$150.00	\$300.00	\$500.00	
<u>MISC. PROVISION & OFFENSES</u>					
15-2	Noise	\$25.00	\$50.00	\$75.00	
<u>NUISANCES</u>					
17-1	Junk	\$150.00	\$300.00	\$500.00	
17-2	Weeds & Grass	\$50.00	\$75.00	\$100.00	
<u>SOLID WASTE</u>					
22-18	Storage	\$150.00	\$300.00	\$500.00	
22-20	Open Burning	\$150.00	\$300.00	\$500.00	
22-21	Dumping in Streets	\$50.00	\$75.00	\$100.00	
23-3	Ice and Snow	\$50.00	\$75.00	\$100.00	
<u>ILLICIT DISCHARGES & CONNECTIONS</u>					
	Illicit Discharge to Stormwater System				
25-1002	Major Violations	\$1,000.00			
	Minor Violations	\$500.00			
	Illicit Connection to Stormwater System				
	Major Violations	\$1,000.00			

	Minor Violations	\$500.00		
	Failure to Provide Adequate preventative Measures to Prevent an Illicit Discharge			
	Major Violations	\$500.00		
	Minor Violations	\$200.00		
	Failure to Report a Spill	\$200.00		
	Failure to Cleanup a Spill	\$200.00		
	Failure to Respond to a Notice of Violation	\$100.00		
	Grass Clippings in Street	Verbal Warning	\$25.00	\$100.00
	<u>LAND DISTURBING ACTIVITIES</u>			
	25-1003	Per Each Distinct Violation		
		Major Violations	\$500.00	
		Minor Violations	\$250.00	
	<u>STRUCTURAL STORMWATER BMP VIOLATIONS</u>			
	25-1004	Failure to perform proper maintenance of a structural stormwater BMP		
		Major Violations	\$500.00	
		Minor Violations	\$250.00	
		Removal and/or alteration to a structural stormwater BMP or easement		
		Major Violations	\$500.00	
		Minor Violations	\$250.00	
		Failure to submit required easement and/or maintenance agreement	\$250.00	

	Failure to submit maintenance records	\$100.00		
<u>RENTAL HOUSING CODE</u>				
	27-4 Rental Registration	\$100.00	\$200.00	\$300.00
	27-5 Rental Inspections	\$100.00	\$200.00	\$300.00
<u>MISC. CODE VIOLATIONS NOT LISTED</u>				
		\$100.00	\$200.00	\$300.00
	<u>FAILURE TO PAY</u>	\$25.00	UP TO	\$2,000.00

Motion by:
 Seconded by:
 All in Favor:
 Opposed:
 Abstained:
 Absent:

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2018.

 Deborah J. Foster, Mayor

ATTEST:

 Patricia J. Monsen, City Clerk

CITY OF FAIRMONT---AGENDA CONTROL SHEET---AGENDA ITEM NO. 15.2

MEETING DATE: August 13, 2018

SUBJECT: Administrative Hearing Officers

REVIEWED BY: Mike Humpal, CEcD, City Administrator

SUBJECT INITIATION BY:

<input type="checkbox"/>	Petition	<input type="checkbox"/>	Board	<input checked="" type="checkbox"/>	Staff	<input type="checkbox"/>	Council	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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SUBJECT BACKGROUND: Mike Humpal, CEcD, City Administrator

INTRODUCED BY: Mike Humpal, CEcD, City Administrator

COUNCIL LIAISON:

TYPE OF ACTION:

<input checked="" type="checkbox"/>	Motion (Voice Vote)	<input checked="" type="checkbox"/>	Resolution (Roll Call)	<input type="checkbox"/>	Discussion
<input type="checkbox"/>	Ordinance 1 st Reading (Introduction only)	<input type="checkbox"/>	Set Public Hearing (Motion)	<input type="checkbox"/>	Information Only
<input type="checkbox"/>	Ordinance 2 nd Reading (Roll call)	<input type="checkbox"/>	Hold Public Hearing (Motion to close)	<input type="checkbox"/>	

RECOMMENED ACTION BY:

<input checked="" type="checkbox"/>	City Staff	<input type="checkbox"/>	Board	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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<input type="checkbox"/>	Issuance	<input checked="" type="checkbox"/>	Approval	<input type="checkbox"/>	Authorization	<input type="checkbox"/>	No recommendation
<input type="checkbox"/>	Denial	<input type="checkbox"/>	Rejection	<input type="checkbox"/>	No action needed	<input type="checkbox"/>	

STATEMENT: In order to implement the process of administrative citations, the City Council needs to Appoint Administrative Hearing Officers and establish their rate of pay.

MOTION: To adopt Resolution 2018-23, Appointing Hearing Officers and Establishing Rate of Pay.

VOTE REQUIRED: Simple majority – Roll call

ATTACHMENTS:

1. Resolution 2018-23
2. _____
3. _____

Council Action: _____ Date: _____

RESOLUTION 2018-23

**A RESOLUTION APPOINTING ADMINISTRATIVE HEARING OFFICERS
AND ESTABLISHING RATE OF PAY**

WHEREAS, the City Council desires to implement the process of Administrative Citations as an alternative method of enforcing the City Code; and,

WHEREAS, the City Council needs to appoint Administrative Hearing Officers and establish their pay rate.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Fairmont, Minnesota, as follows:

That the following attorneys are hereby appointed Administrative Hearing Officers for the City of Fairmont and will be paid at a rate of \$165.00 per hour for their services:

- Michael Edman, Fairmont, MN
- Brandon Edmundson, Fairmont, MN
- Sara Edmundson, Fairmont, MN
- Daniel Lundquist, Blue Earth, MN
- Kim Schaffer, Fairmont, MN
- Bruce Sellers, Blue Earth, MN
- Michael Tow, Fairmont, MN

- Motion by:
- Seconded by:
- All in Favor:
- Opposed:
- Abstained:
- Absent:

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2018.

Deborah J. Foster, Mayor

ATTEST:

Patricia J. Monsen, City Clerk

CITY OF FAIRMONT----AGENDA CONTROL SHEET----AGENDA ITEM NO. 15.3

MEETING DATE: August 13, 2018

SUBJECT: Administrative Citations

REVIEWED BY: Mike Humpal, CEcD, City Administrator



SUBJECT INITIATION BY:

<input type="checkbox"/>	Petition	<input type="checkbox"/>	Board	<input checked="" type="checkbox"/>	Staff	<input type="checkbox"/>	Council	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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SUBJECT BACKGROUND: Mike Humpal, CEcD, City Administrator

INTRODUCED BY: Mike Humpal, CEcD, City Administrator

COUNCIL LIAISON:

TYPE OF ACTION:

<input type="checkbox"/>	Motion (Voice Vote)	<input type="checkbox"/>	Resolution (Roll Call)	<input type="checkbox"/>	Discussion
<input checked="" type="checkbox"/>	Ordinance 1 st Reading (Introduction only)	<input checked="" type="checkbox"/>	Set Public Hearing (Motion)	<input type="checkbox"/>	Information Only
<input type="checkbox"/>	Ordinance 2 nd Reading (Roll call)	<input type="checkbox"/>	Hold Public Hearing (Motion to close)	<input type="checkbox"/>	

RECOMMENED ACTION BY:

<input checked="" type="checkbox"/>	City Staff	<input type="checkbox"/>	Board	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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<input type="checkbox"/>	Issuance	<input checked="" type="checkbox"/>	Approval	<input type="checkbox"/>	Authorization	<input type="checkbox"/>	No recommendation
<input type="checkbox"/>	Denial	<input type="checkbox"/>	Rejection	<input type="checkbox"/>	No action needed	<input type="checkbox"/>	

STATEMENT: In order to implement the process of administrative citations, the City Council needs to amend City Code Chapter 2 to be consistent with an updated plan.

MOTION: To call for a Public Hearing on August 27, 2018 at 5:30 p.m. to consider Ordinance 2018-16.

VOTE REQUIRED: Simple majority

ATTACHMENTS:

1. Ordinance 2018-16
2. Public Hearing Notice.

Council Action: _____ Date: _____

ORDINANCE 2018-16

**ORDINANCE AMENDING FAIRMONT CITY CODE CHAPTER 2,
ARTICLE 1.5 ADMINISTRATIVE CITATIONS AND CIVIL
PENALTIES, SECTION 2-8 – ADMINISTRATIVE HEARING,
SECTION 2-9 – ADMINISTRATIVE REVIEW, 2-10 – JUDICIAL
REVIEW, SECTION 2-11 – RECOVERY OF CIVIL PENALTIES
AND SECTION 2-12 – CRIMINAL PENALTIES**

WHEREAS, after review of Fairmont City Code Chapter 2, Administrative Citations and Civil Penalties, it was determined that this section needed to be updated to be consistent with an updated plan to administer administrative citations; and,

NOW THEREFORE THE CITY OF FAIRMONT DOES ORDAIN, that Fairmont City Code Chapter 2, Administrative Citations and Civil Penalties shall be amended as follows:

Sec. 2-8 – Administrative hearing.

- (a) The city council shall periodically approve a list of people, from which the city administrator will randomly select a hearing officer to hear and determine a matter for which a hearing is requested. The hearing officer is a public officer as defined by Minnesota Statutes section 609.415. The hearing officer must not be a city employee. ~~The city administrator shall establish a procedure for evaluating the competency of the hearing officers, including comments from people charged with violations and city staff. These reports shall be provided to the city council.~~
- (b) The person charged with a violation may request a hearing before a single hearing officer. ~~or a panel of three (3) hearing officers.~~
- (c) The person charged with a violation shall have the right to request no later than five (5) days before the date of the hearing that the assigned hearing officer(s) be removed from the case. One such request for each case will be granted automatically by the city administrator. A subsequent request must be directed to the assigned hearing officer(s) who will decide whether he or she can fairly and objectively review the case. The city enforcement officer may remove a hearing officer(s) only by requesting that the assigned hearing officer(s) find that he or she cannot fairly and objectively review the case. If such a finding is made, the officer shall remove

himself or herself from the case, and the city administrator shall assign another hearing officer(s).

- (d) Upon the hearing officer's own initiative or upon the written request of the person charged with a violation or the city, the officer may issue a subpoena for the attendance of a witness or the production of books, papers, records, or other documents that are material to the matter being heard. The party requesting the subpoena shall be responsible for serving the subpoena in the manner provided for in civil actions and for paying the fees and expenses of any witness. A person served with a subpoena may file an objection with the hearing officer promptly but no later than the time specified in the subpoena for compliance. The officer may cancel or modify the subpoena if it is unreasonable or oppressive. Any person who, without just cause, fails or refuses to attend and testify or to produce the required documents in obedience to a subpoena shall be guilty of a misdemeanor. Alternatively, the party requesting the subpoena may seek an order from district court directing compliance.
- (e) Notice of the hearing must be served in person or by mail on the person charged with the violation at least ten (10) days in advance of the hearing, unless a shorter time period is agreed to by all parties. At the hearing, the parties will have the opportunity to present testimony and question any witnesses, but strict rules of evidence shall not apply. The hearing officer shall tape record the hearing and receive testimony and exhibits. The officer shall receive and give weight to evidence, including hearsay evidence, which possesses probative value that is not outweighed by prejudicial effect.
- (f) The hearing officer has the authority to determine that a violation occurred, to dismiss a citation, to impose the scheduled fine, and to reduce, stay, or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions. When imposing a penalty for a violation, the hearing officer will consider the following factors:
- (1) The duration of the violation;
 - (2) The frequency or reoccurrence of the violation;
 - (3) The seriousness of the violation;
 - (4) The history of the violation;
 - (5) The violator's conduct after issuance of the notice of hearing;
 - (6) The good faith effort by the violator to comply;
 - (7) The economic impact of the penalty on the violator;
 - (8) The impact of the violation upon the community; and,

(9) Any other factors appropriate to a just result.

The hearing officer may exercise discretion to impose a fine for more than one day of the continuing violation, but only upon a finding that (1) the violation caused a serious threat of harm to the public health, safety, or welfare or that (2) the accused intentionally and unreasonably refused to comply with the code requirement. The hearing officer's decision and supporting reasons must be in writing.

~~(g) Except for matters subject to administrative review under section 2-9, the decision of the hearing officer is final without any further right of administrative appeal. In a matter subject to administrative review under section 2-9, the hearing officer's decision may be appealed to the city council by submitting a request in writing to the city clerk within ten (10) days after the hearing officer's decision.~~

(g) The failure to pay the fine or request an appeal within thirty (30) days after the citation or the failure to attend the hearing constitutes a waiver of the violator's rights to an administrative hearing and an admission of the violation. A hearing officer may waive this result upon good cause shown. Examples of "good cause" are: death or incapacitating illness of the person charged with a violation; a court order requiring the person charged to appear for another hearing at the same time; and lack of proper service of the citation or notice of the hearing. "Good cause" shall not include: forgetfulness and intentional delay.

~~Sec. 2-9. Administrative review:~~

~~(a) The hearing officer's decision in any of the following matters may be appealed by any party to the city council for administrative review:~~

- ~~(1) An alleged failure to obtain a permit, license, or other approval from the city council as required by an ordinance;~~
- ~~(2) An alleged violation of a permit, license, other approval, or the conditions attached to the permit, license, or approval, which was granted by the city council;~~
and
- ~~(3) An alleged violation of regulations governing a person or entity who has received a permit, license, or approval granted by the city council.~~

~~(b) The appeal shall be heard by the city council after notice of the hearing is served in person or by registered mail upon the person charged. The notice shall be served at least ten (10) days in advance of the hearing. The parties to the hearing shall have an opportunity to present oral and written arguments regarding the hearing officer's decision.~~

- ~~(c) The city council shall consider the record, the hearing officer's decision, and any additional arguments before making a determination. The council is not bound by the hearing officer's decision, but may adopt all or part of the officer's decision. The council's decision must be in writing.~~
- ~~(d) If the council makes a finding of a violation, it may impose a civil penalty not exceeding two thousand dollars (\$2,000.00) per day per violation, and may consider any or all of the factors contained in section 2-8(e). The council may also reduce, stay, or waive a fine unconditionally or based on reasonable and appropriate conditions.~~
- ~~(e) In addition, to imposing a civil penalty, the council may suspend or revoke any city-issued license, permit, or other approval associated with the violation, if the procedure in city code section 14-24 has been followed. The hearing required in that section shall be satisfied by the hearing before the hearing officer with the right of appeal to the city council.~~

Sec. ~~2-9-10~~. – Judicial review.

An aggrieved party may obtain judicial review of the decision of the hearing officer ~~or the city council~~ in accordance with state law. The request for judicial review shall be filed in Martin County District Court and served upon the city clerk within thirty (30) days of the final decision of the hearing officer ~~or city council~~.

Sec. ~~2-10-11~~. – Recovery of civil penalties.

- (a) If a civil penalty is not paid within the time specified, it shall constitute:
- (1) A lien upon the real property upon which the violation occurred if the property or improvements on the property was the subject of the violation and the property owner was found responsible for that violation, or
 - (2) A personal obligation of the violator in all other situations.
- (b) A lien may be assessed against the property and collected in the same manner as taxes.
- (c) A personal obligation may be collected by any appropriate legal means.
- (d) A late payment fee of ten (10) percent of the fine shall be assessed for each thirty (30) day period, or part thereof, that the fine remains unpaid after the due date.
- (e) During the time that a civil penalty remains unpaid, the provisions of City Code section 14-24 shall apply to any license, permit, or other city approval sought by the violator or for property under the violator's ownership or control.
- (f) Failure to pay a fine is grounds for suspending or revoking a license associated with the violation.

Sec. 2-11 ~~12~~. -- Criminal penalties.

The following are misdemeanors, punishable in accordance with state law:

- (1) Failure, without good cause, to pay a fine or request a hearing within thirty (30) days after issuance of an administrative citation.
- (2) Failure, without good cause, to appear at a hearing which was scheduled under section 2-8.
- (3) Failure to pay a fine or comply with conditions imposed by a hearing officer within thirty (30) days after it was imposed, or such other time as may be established by the hearing officer, ~~unless the matter is appealed under section 2-9.~~
- (4) ~~Failure to pay a fine or comply with conditions imposed by the city council within thirty (30) days after it was imposed, or such time as may be established by the city council.~~

Motion by:
Seconded by:
All in Favor:
Opposed:
Abstained:
Absent:

PASSED, APPROVED AND ADOPTED THIS _____ day of August 2018.

Deborah J. Foster, Mayor

Patricia J. Monsen, City Clerk

1st Reading: August 13, 2018
2nd Reading: August 27, 2018

OFFICIAL PUBLICATION

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN that the City Council of the City of Fairmont will hold a public hearing to consider proposed Ordinance 2018-16 amending Fairmont City Code Chapter 2, Article I.5 Administrative Citations and Civil Penalties.

A complete copy of the proposed Ordinances may be viewed on the City of Fairmont's website or at the City Clerk's Office.


You are further notified said hearing will be held in the **City Council Chambers of City Hall**, 100 Downtown Plaza, Fairmont, Minnesota on Monday, August 27, 2018 at 5:30 p.m.

BY ORDER OF THE CITY OF FAIRMONT

/s/ Patricia J. Monsen
Patricia J. Monsen, City Clerk

MEETING DATE: August 13, 2018

SUBJECT: House Demolition Assistance

REVIEWED BY: Mike Humpal, CEcD, City Administrator 

SUBJECT INITIATION BY:

<input checked="" type="checkbox"/>	Petition	<input type="checkbox"/>	Board	<input type="checkbox"/>	Staff	<input type="checkbox"/>	Council	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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SUBJECT BACKGROUND: Mike Humpal, CEcD, City Administrator

INTRODUCED BY: Mike Humpal, CEcD, City Administrator

COUNCIL LIAISON: None

TYPE OF ACTION:

<input checked="" type="checkbox"/>	Motion (Voice Vote)	<input type="checkbox"/>	Resolution (Roll Call)	<input type="checkbox"/>	Discussion
<input type="checkbox"/>	Ordinance 1 st Reading (Introduction only)	<input type="checkbox"/>	Set Public Hearing (Motion)	<input type="checkbox"/>	Information Only
<input type="checkbox"/>	Ordinance 2 nd Reading (Roll call)	<input type="checkbox"/>	Hold Public Hearing (Motion to close)	<input type="checkbox"/>	

RECOMMENED ACTION BY:

<input type="checkbox"/>	City Staff	<input type="checkbox"/>	Board	<input type="checkbox"/>	Commission	<input type="checkbox"/>	Committee
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<input type="checkbox"/>	Issuance	<input type="checkbox"/>	Approval	<input type="checkbox"/>	Authorization	<input type="checkbox"/>	No recommendation
<input type="checkbox"/>	Denial	<input type="checkbox"/>	Rejection	<input type="checkbox"/>	No action needed	<input type="checkbox"/>	

STATEMENT: Mark Atkinson is the owner of the property located at 217 South Main Street. This house is uninhabitable and has been a neighborhood eyesore for the past several years. Mr. Atkinson is requesting the City Council assist in the demolition cost of 50% up to the total of \$5,000.00 to be reimbursed.

MOTION: To approve or deny demolition assistance at 50% of the actual cost up to \$5,000.00.

VOTE REQUIRED: Simple majority.

ATTACHMENTS:

1. Application and estimate.
2. Property information and photos
3. _____

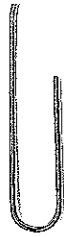
Council Action: _____ Date: _____

Application for City Assistance with Housing Demolition Retaining Ownership of the Property	
Name	Mark Atkinson
Address	219 S. Main St, Fmt, MN
Phone #	507-236-7501
Address of building to be demolished	217 S. Main St.
Current year assessed market value	
Year built	1920
Year last building permit issued; for what purpose	
Is the building vacant	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the building uninhabitable based on safety inspection	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are the property taxes current	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
What is the estimated cost of rehabilitation to make the property habitable	\$ _____
Explain the reuse of the property post demolition	Garage
City cost share requested	\$ _____

Attachments:

- a. Pictures: front/back/side
- b. Proof property taxes are paid
- c. Proof of ownership-deed
- d. Environmental inspection
- e. Demolition cost estimates

For City Use:	
Date application received:	
Date presented to City Council:	
Council action:	<input type="checkbox"/> Approve <input type="checkbox"/> Deny
If approved, date demolition permit issued:	



Darold's Inspections, LLC.

546 2nd St. SW
PO Box 663
Winnebago, MN 56098

<h2>Invoice</h2>

Mark Atkinson - House

July 19, 2018

PAID 7-28-18
2367
\$788.90

Asbestos Inspection	\$150.00
Disposable Core Cutters	\$35.00
EMSL analysis cost	\$603.90
Total Amount Due	<u>\$788.90</u>

Please remit to Darold's Inspections, LLC.

ROSBURG CONSTRUCTION

P.O. Box 356 • Welcome, MN 56181
Phone (507) 728-8608 • Cell (507) 920-9797
Fax (507) 728-8608

PROPOSAL

PAGE _____ OF _____

PROPOSAL SUBMITTED TO: <i>Mark Atkinson</i>	DATE <i>8-7-2018</i>
STREET <i>219 S. Main St.</i>	PHONE <i>507-236-7501</i>
CITY, STATE, ZIP <i>Fairmont, MN 56031</i>	FAX
JOB NAME <i>House demo</i>	JOB LOCATION <i>217 S. Main St.</i>

SPECIFICATIONS

We hereby submit specifications and estimates for the following:

Cap sewer and water lines. Demolish house and haul to certified landfill. Haul out concrete to have it recycled. Dispose of appliances. Backfill basement, hydroseal and mulch netting installed.

PAYMENT

We hereby propose to furnish labor and materials complete in accordance with the above specifications for the sum of:

twelve thousand seven hundred fifty dollars \$ *12,750.00*

with payment as follows: *when completed*

CONDITIONS

All material is guaranteed to meet specifications. All work to be completed in a professional, workmanlike manner according to standard practices. Any alteration to or deviation from the above specifications involving extra costs will be executed only upon written orders, and will be billed as an extra charge over and above this estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Workers are fully covered by workmen's compensation insurance.

NOTE: This proposal may be withdrawn by us if not accepted within *30* days.

Jane L. Rosburg
Authorized Signature

ACCEPTANCE

The above proposed prices, specifications and conditions are satisfactory and hereby accepted. You are authorized to complete this work as specified. Payment will be made as indicated above.

Date Accepted *8/7/18* Signature *Mark F. Atkinson*

Asbestrol, Inc.

LICENSED, EPA CERTIFIED
ASBESTOS ABATEMENT
REMOVAL, DISPOSAL & ENCAPSULANT

PO BOX 1041
AUSTIN, MN 55912
Phone (507)433-2390
Fax (507)433-4030

Email: office@asbestrol.com

August 6, 2018

Mark Atkinson
219 S. Main Street
Fairmont, MN

Email: mfatk1@yahoo.com
Phone Number: (507)236-7501

Scope of work – Removal and disposal of approximately 10' of asbestos containing pipe insulation in the basement of home located at 217 S. Main Street Fairmont, MN

Dear Mark,

Asbestrol, Inc. will provide all labor and material necessary to remove and dispose of the defined materials in compliance with Federal, State and Local regulations for the sum of – **Estimated cost for 2 men for 1 day, 16 hours \$1,970.00**

Thank you for the opportunity to provide a quote for this project. If you have any questions, or to schedule the work, please contact our office.

Sincerely,

Brian Landherr

Brian Landherr

Manager

Approved by

Date



22.



23.



24.