

CITY OF NORTHFIELD, MN
CITY COUNCIL RESOLUTION 2016- 107

**FINDINGS, CONCLUSIONS AND ORDER OF ABATEMENT
OF NORTHFIELD CITY COUNCIL
REGARDING BLIGHT AND NUISANCE CONDITIONS AT 504 4TH STREET EAST**

WHEREAS, pursuant to Northfield City Code, Chapters 22 and 86, and Minnesota Statutes, Chapter 609, the City Council of the City of Northfield, Minnesota (the “City”) is taking under consideration an Order of Abatement to abate certain conditions on that certain property located at 504 4th Street East in Northfield, MN (the “Property”), which constitute blight and a public nuisance; and

WHEREAS, following written notice of hearing regarding the above-referenced matter, dated September 28, 2016, and mailed to the property owners of the Property via certified mail, a public hearing was held on October 18, 2016 before the Northfield City Council to consider the blight and nuisance conditions present on the Property and consideration of an Order of Abatement to abate such conditions; and

WHEREAS, at the properly noticed October 18, 2016 public hearing, the property owners of the Property were given an opportunity to be heard by the Northfield City Council, and the City Council received evidence and heard testimony regarding the blight and nuisance conditions present on the Property.

NOW, THEREFORE, the Northfield City Council, based upon the record, testimony and evidence presented at said hearing, makes and adopts the following:

FINDINGS

1. That Lisa M. Ebert, Victor W. Ebert and Audrey M. Ebert are the owners of record (the “Owners”) of the Property located at 504 4th St. E., Northfield, MN 55057 (the “Property”). *See Property Deed of record and 2016 Property Tax Statement, attached hereto and incorporated herein by reference as Exhibit A.*
2. That on October 28, 2015, the City’s Building Official contacted an Owner of the Property, Lisa M. Ebert, expressing concerns about the safety of the neighborhood and the safety of first responders that may have to respond to the Property based on the condition of the Property and requesting that the Property Owner contact the Building Official regarding the same. *See October 28, 2015 letter from Jim Kessler, Building Official, to Lisa M. Ebert, attached hereto and incorporated herein by reference as Exhibit B.*
3. That on March 25, 2016, following receipt of complaints and five months after this initial contact with one of the Owners, the City’s Building Official, following the Owners' failure to remedy the conditions on the Property, issued a letter notice of violation, thereby notifying the Owners in writing that the Owners have knowingly allowed or

permitted construction and landscaping materials, equipment and supplies, junk and other debris to accumulate in plain sight, and weeds to grow in excess of one foot in height at the Property in violation of State and City blight and public nuisance laws and ordinances and that the Owners were required to remedy such blight and nuisance conditions. *See March 25, 2016 Notice of Violation letter from Jim Kessler, Building Official, attached hereto and incorporated herein by reference as Exhibit C.*

4. That on June 2, 2016, again following failure of the Owners to remedy such identified blight and nuisance conditions on the Property and despite having received a written notice of violation from the City Building Official, dated March 25, 2016, City law enforcement issued a criminal citation for said ongoing violations. *See June 2, 2016 Citation, attached hereto and incorporated herein by reference as Exhibit D.*
5. That on August 24, 2016, again following failure of the Owners to remedy such blight and nuisance conditions, the City Attorney, pursuant to Northfield City Code, section 22-57, mailed the Owners a Notice and Order to Abate Nuisance via certified mail, ordering that the blight and nuisance conditions be removed from the Property not later than the ten (10) days following receipt of said Notice and Order. *See August 24, 2016 Notice and Order to Abate Nuisance, attached hereto and incorporated herein by reference as Exhibit E.*
6. That on September 28, 2016, again following failure of the Owners to remedy such blight and nuisance conditions, the City Attorney, pursuant Northfield City Code, sections 22-57 and 22-58, mailed the Owners a Notice of Hearing via certified mail, again ordering that the blight and nuisance conditions be removed from the Property and further notifying the Owners that the Northfield City Council will conduct a public hearing to consider the blight and public nuisance conditions on the Property as described in the August 24, 2016 Notice and Order to Abate Nuisance at its regular City Council meeting on Tuesday, October 18, 2016, at 7:00 pm. This notice further informed the Owners that this public hearing is the Owners' opportunity to be heard on this matter in order to present any evidence or arguments the Owners believe the City Council should consider regarding the ordinance and state law violations identified in the August 24, 2016 Notice and Order to Abate Nuisance. *See September 28, 2016 Notice of Hearing, attached hereto and incorporated herein by reference as Exhibit F.*
7. That the Owners were informed in the August 24 and September 28 Notices (Exhibits E and F) that, as an alternative to the Owners' voluntarily abating, eliminating and removing all of the identified blight and nuisance conditions on the Property, the Owners could sign a City Consent Agreement thereby allowing the City or the City's contracted agent to enter upon the Owners' Property, abate, eliminate and remove the identified blight and nuisance conditions present on the Property, and that the costs of the same incurred by the City associated with the clean-up would then be invoiced or subsequently assessed to the Owners and the Property. *See Consent Agreement, attached hereto and incorporated herein by reference as Exhibit G.*

8. That the Owners have to date failed to sign and return the City Consent Agreement to the City Administrator.
9. That the City has made repeated attempts to obtain compliance by the Owners and to have the Owners remedy, abate, eliminate and remove the blight and nuisance conditions present on the Property.
10. That from the date of the notice of violation from the Building Official on March 24, 2016 until the date of this hearing, the Owners have had over six months in which to voluntarily remedy, abate, eliminate and remove the blight and nuisance conditions on the Property, but have instead intentionally failed to remedy said conditions even after having been repeatedly contacted and ordered on three prior occasions to do so and after also receiving a criminal citation for the same violations.
11. That the August 24, 2016 Notice and Order to Abate Nuisance ordered removal of the blight and nuisance conditions specifically identified therein and informed the Owners of their right to appeal the Building Official's and City Attorney's notice and orders to the City Council, as follows::

“Pursuant Northfield City Code, section 22-57, you are hereby ordered, within ten (10) days of receiving this Notice and Order to remove and eliminate all of the above-identified blight and nuisance conditions from the property located at 504 4th St. E., Northfield, MN 55057. The property owner has the right to appeal this Order to the Northfield City Council, provided that any appeal must be submitted in writing to the City Clerk not later than the ten (10) days following receipt of this Notice and Order. If the property owner requests an appeal in compliance with section 22-57, a hearing before the Northfield City Council will be scheduled. Following the hearing, the City Council will determine whether a violation(s) is evident. Upon finding of a violation(s), the City Council shall order that the cited conditions be removed, stored or eliminated within ten (10) days of the Council making such Findings and Order.”

12. That the Owners having been informed of their right to appeal have failed to timely appeal.
13. That City staff have initiated this hearing seeking an Order of Abatement from the City Council in order to take further legal action against the Owners to abate the blight and nuisance conditions on the Property hereby authorizing City staff and the City Attorney to enforce the City Council's Order of Abatement and to have City personnel or the City's contracted agent subsequently enter upon the Property and remedy, abate, eliminate and remove the blight and nuisance conditions present on the Property following a subsequent motion for summary enforcement of the City Council's Order of Abatement to Rice County District Court and a Court order authorizing the City to take such actions.

14. That the Owners have allowed the accumulation of construction and landscaping materials, junk and other debris, including but not limited to the following: pallets, stones, wood, concrete, scaffolding, porch roof, furniture, buckets, lumber, tarp, miscellaneous tools and equipment laying around, shelves and various other debris, junk and miscellaneous items on the Property in plain sight and allowed weeds to grow in excess of one foot in height constituting blight and a public nuisance in violation of the following City Code Section(s) and State Statutes:

- a. City Code § 22-56 (“It is determined that the uses, structures and activities and causes of blight or blighting factors described in this article, if allowed to exist, will result in blighted and undesirable neighborhoods, so as to be harmful to the welfare, health and safety of the public. No person shall maintain or permit to be maintained any causes of blight or blighting factors upon any property ...”)
 - i. City Code § 22-56.1 (“... the storage or accumulation of junk or other refuse shall not be kept outside of an enclosed structure. Building materials may be kept outside of an enclosed structure for a maximum of 30 days following the expiration of a building permit for which such material has been acquired. ...”)
 - ii. City Code § 22-56.2 (“In any area the existence of a structure which, because of fire, wind, natural disaster, or physical deterioration, is no longer suitable as a dwelling, nor useful for any other purpose for which it was intended, is prohibited.”)
 - iii. City Code § 22-56.3 (“In any area zoned for residential purposes, the existence of a vacant dwelling, garage, or other outbuilding, unless such building is kept securely locked, the windows are kept glazed or neatly boarded up, and is otherwise protected to prevent entrance thereto by vandals, is prohibited.”)
- b. City Code § 86-1.(b) (“Any weeds or grass growing upon any lot or parcel of land, excluding grass or forage crops used for agricultural purposes, planned landscaping purposes, and/or areas officially designated as wildlife areas, but including the lands between the curblineline of the street or alley and the property line of private properties, to greater height than one foot or are about to go to seed are declared to be a nuisance and dangerous to the health, safety and good order of the city.”)
- c. Minn. Stat. § 609.74 (“Whoever by an act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:
 - i. maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or

- ii. interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- iii. is guilty of any other act or omission declared by law to be a public nuisance and for which no sentence is specifically provided.”)

d. Minn. Stat. § 609.745 (“Whoever having control of real property permits it to be used to maintain a public nuisance or lets the same knowing it will be so used is guilty of a misdemeanor.”)

See Excerpts from Northfield City Code and State Statutes, attached hereto and incorporated herein by reference as Exhibit H.

15. That photographs documenting the herein identified blight and nuisance conditions on the Property in violation of the above-reference ordinances and statutes are attached to the August 24, 2016 Notice and Order to Abate Nuisance and the September 28, 2016 Notice of Hearing. *See Exhibit E at Exh. 2 and Exhibit F at Exh. 1.*
16. That the Owners have been notified that pursuant to Northfield City Code, section 22-58, all costs incurred by the City in abating any of the identified blight and nuisance conditions on the Property, including but not limited to, hiring a City contractor or using City personnel to enter upon the Property and clean up, remedy, abate, eliminate and remove the identified blight and nuisance conditions on the Property, as well as, the City’s legal fees incurred on this matter and court costs in enforcing this Order of Abatement, are the Owners’ responsibility and the Owners are specifically liable for the same. *See Exhibit E at 3 and Exhibit F at 2.*
17. That the Owners have been notified that pursuant to Northfield City Code, section 22-58, in the event that such costs incurred by the City in this process are not timely paid by the Owners upon the Owners receipt of an invoice for the same from the City, such costs will be subsequently assessed by the City against the Property and certified to taxers for payment by the Owners in like manner as property taxes on the Property. *Id.*

NOW, THEREFORE, the Northfield City Council makes and adopts the following:

CONCLUSIONS AND ORDER

1. That the conditions on the Property identified herein constitute blight and a public nuisance in violation of the above-referenced City Code provisions and State statutes.
2. That the Owners are hereby ordered to remedy, abate, eliminate and remove all of the blight and nuisance conditions from the Property as identified in the August 24, 2016 Notice and Order to Abate Nuisance and Notice of Hearing, Exhibits E and F, and this Order of Abatement.
3. That the Property Owners shall have until October 28, 2016 to remedy, abate, eliminate and remove all of the blight and nuisance conditions from the Property as identified in the

August 24, 2016 Notice and Order to Abate Nuisance and Notice of Hearing, Exhibits E and F, and this Order of Abatement.

4. That if the Owners shall fail to remedy the nuisance conditions on or before the time specified above herein, the City staff and City Attorney are authorized and directed to take all actions necessary to remedy, abate, eliminate and remove all of the blight and nuisance conditions from the Property as identified in the August 24, 2016 Notice and Order to Abate Nuisance and Notice of Hearing, Exhibits E and F, and this Order of Abatement, including but not limited to or all or any combination of the following:
 - a. Make a motion for summary enforcement of this Order of Abatement or file such other legal action is necessary to the District Court of Rice County, Minnesota, in order to obtain a court order authorizing the City personnel or the City's contracted agent to subsequently enter upon the Property and remedy, abate, eliminate and remove the identified blight and nuisance conditions present on the Property.
 - b. Initiate additional criminal prosecutions for each documented violation of the City Code.
 - c. Execute a Consent Agreement with the Property Owners, Exhibit G, to allow the City or the City's contracted agent to enter upon the Property to remedy, abate, eliminate and remove the identified blight and nuisance conditions present on the Property and invoice the costs incurred by the City associated with the clean-up to the Owners or subsequently assess such costs to the Property.
 - d. Execute a contract with a City contractor to enter upon the Property to remedy, abate, eliminate and remove the identified blight and nuisance conditions present on the Property.
 - e. Invoice the Owners for all costs incurred by the City to remedy, abate, eliminate and remove the identified blight and nuisance conditions present on the Property.
 - f. In the event that the owners do not timely pay the invoiced costs incurred by the City, initiate a public hearing before the City Council to consider assessing such costs incurred by the City as an assessment on the Property to be certified for payment in like manner as property taxes on the Property.
5. This Order of Abatement shall remain in effect until the Owners remedy, abate, eliminate and remove all of the identified blight and nuisance conditions present on the Property to the satisfaction of the Building Official.

PASSED by the City Council of the City of Northfield on this ____ day of _____,
2016.

ATTEST

City Clerk

Mayor

VOTE: ____ GRAHAM ____ DELONG ____ LUDESCHER ____ NAKASIAN
 ____ PETERSON WHITE ____ POWNELL ____ ZWEIFEL

EXHIBIT A
Property Deed of Record and 2016 Property Tax Statement

435090

7/13/12
 839

Form No. 1-M - WARRANTY DEED Minnesota Uniform Conveyancing Blanks (1978) Miller-Davis Co., St. Paul, MN

Individual(s) to Individual(s)

No delinquent taxes and transfer entered; Certificate of Real Estate Value (X) filed () not required Certificate of Real Estate Value No. 32093

April 2, 1998 (Year)

Lorraine Nelson County Auditor

by br Deputy

Document No. **435090** OFFICE OF COUNTY RECORDER
 RICE COUNTY, MINN
 No. of Pages 1

I hereby certify that the within instrument was filed in this office for record on 04-02-1998 at 10:25 AM PM

04021998 Linda Lamont, Acting County Recorder

P. Melchert Deputy

(reserved for recording data)

STATE DEED TAX DUE HEREON: \$447.15
 Date: March 31, 1998

FOR VALUABLE CONSIDERATION, Margaret L. Chesley, f/k/a Margaret L. Bakke, a single person, Grantor(s),
 (marital status)

herby convey(s) and warrant(s) to Victor W. Ebert, Audrey M. Ebert and Lisa M. Ebert, as joint tenants and not as tenants in common, Grantee (s)

real property in Rice County, Minnesota, described as follows:

The West Five (5) feet of Lots Four and Five (5), in Block Twenty Nine (29), in the Original Town (Now City) of Northfield, Rice County, Minnesota;

AND ALSO

The East Sixty (60) feet of Lots Six (6) and Seven (7) of Block Twenty Nine (29) of the Original Town (Now City) of Northfield, Rice County, Minnesota

THE SELLER CERTIFIES THAT THE SELLER HAS NO KNOWLEDGE OF ANY WELLS ON THE ABOVE DESCRIBED REAL PROPERTY.

(if more space is needed, continue on back)
 together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions:
 Easements, covenants, conditions and restrictions of record, if any.

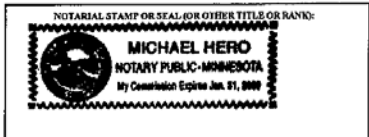
Date 4-2-98 Receipt # 4090
 Rice County Deed Tax Paid \$ 447.15

Affix Deed Tax Stamp Here

Margaret L. Chesley
 Margaret L. Chesley, f/k/a Margaret L. Bakke

STATE OF MINNESOTA }
 COUNTY OF RICE }

The foregoing instrument was acknowledged before me on March 31, 1998, Date
 by Margaret L. Chesley, f/k/a Margaret L. Bakke, a single person, Grantor(s).



Lisa M. Ebert
 SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee):

Lisa M. Ebert
 504 East Fourth Street
 Northfield, MN 55057

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):
 Michael W. Hero
 HERO LAW OFFICE, P.A.
 105 E. Fourth Street, Suite 300
 P.O. Box 427
 Northfield, MN 55057
 (507) 645-5631
 #146365

435090



FRAN WINDSCHITL, CPA
RICE COUNTY AUDITOR - TREASURER
330 3RD STREET NW, STE 45
FARIBAULT, MN 55021-6141
507-333-6104
www.co.rice.mn.us

Bill#: 1295962
Owner Name: EBERT LISA
Lender: WELLS FARGO REAL ESTATE TAX SERVICES

Property ID Number: 22.06.2.00.027

Taxpayer:
LISA EBERT ET AL
504 4TH ST E
NORTHFIELD MN 55057-2216

**\$\$\$
REFUNDS?**

You may be eligible for one or even two refunds to reduce your property tax. Read the back of this statement to find out how to apply.

Property Address:
504 4TH ST E
NORTHFIELD MN 55057

Property Description:
Block 29 Lot 4 NORTHFIELD ORIG TOWN
ORIG TOWN W/ST L4 & L5 E/60FT L6 & L7
B29

Line 13 Special Assessment Detail:

4th street improvements	896.85
S-91-2016	666.91
S-2002.105 4th St service lines	263.82
Sold Waste Fee	40.00

Principal: 1,650.25
Interest: 212.93

2016 Property Tax Statement

		VALUES AND CLASSIFICATION	
		2015	2016
Step 1	Taxes Payable Year:		
	Estimated Market Value:	146,500	148,700
	Improvements Excluded:		
	Homestead Exclusion:	24,100	23,900
	New Improvements/ Expired Exclusions:		
	Taxable Market Value:	122,400	124,800
	Property Classification:	Res Hstd	Res Hstd
Step 2	PROPOSED TAX		\$2,244.00
<small>Do not include special assessments or referenda approved by the voters at the November election held in November 2015.</small>			
PROPERTY TAX STATEMENT			
Step 3	First half taxes due:	5/16/2016	2,055.00
	Second half taxes due:	10/17/2016	2,055.00
	Total Taxes Due in 2016:		4,110.00

Tax Detail for Your Property:		2015	2016	
Taxes Payable Year:				
1. Use this amount on Form M1PR to see if you are eligible for a property tax refund. File by August 15. If this box is checked, you owe delinquent taxes and are not eligible.			2,246.82	
2. Use these amounts on Form M1PR to see if you are eligible for a special refund.		2,194.56		
Tax and Credits	3. Property taxes before credits	2,194.56	2,246.82	
	4. Credits that reduce property taxes:			
	A. Agricultural market value credits	0.00	0.00	
	B. Other Credits	0.00	0.00	
	5. Property taxes after credits	2,194.56	2,246.82	
Property Tax by Jurisdiction	6. County - RICE COUNTY	476.07	510.65	
	7. City or Town - CITY OF NORTHFIELD	694.62	719.34	
	8. State General Tax	0.00	0.00	
	9. School District - SD 6559 NORTHFIELD			
		A. Other	303.74	315.47
		B. Voter Approved	648.38	629.89
	10. Special Taxing Districts			
		A. Rice County HRA	2.73	2.73
		B. Hospital	0.00	0.00
		C. City HRA	21.20	21.70
	D. FDA	20.77	21.27	
	E. TIF	0.00	0.00	
	11. Non-school voter approved referenda levies	29.05	25.97	
	12. Total property tax before special assessments	2,194.56	2,246.82	
	13. Special assessments - Principal: 1,650.25 Interest: 212.93	1,873.44	1,863.10	
	14. YOUR TOTAL PROPERTY TAX AND SPECIAL ASSESSMENTS	\$4,068.00	\$4,110.00	

PAYABLE 2016 2nd HALF PAYMENT STUB

TO AVOID PENALTY PAY ON OR BEFORE: 10/17/2016

Property ID#: 22.06.2.00.027

2

Escrow ID: WELLS FARGO REAL ESTATE TAX SERVICES

Bill #: 1295962

Taxpayer: LISA EBERT ET AL
504 4TH ST E
NORTHFIELD MN 55057-2216

SECOND 1/2 TAX AMOUNT DUE:

\$2,055.00

PENALTY:

MAKE CHECKS PAYABLE TO:

Rice County Auditor-Treasurer
320 3rd St NW Ste 5
Faribault MN 55021-6141



22062000270000 2 00000000205500 1

If your tax is \$100.00 or less, pay the entire tax by May 16, 2016 to avoid penalty.

Your cancelled check is proof of payment. Please write your Property ID # on your check. Postdated checks are not held. Only official U.S. Postmark determines payment mail date.

Automatic withdrawal plans are available in both quarterly and semi-annual installments.

PAYABLE 2016 1st HALF PAYMENT STUB

TO AVOID PENALTY PAY ON OR BEFORE: 5/16/2016

Property ID#: 22.06.2.00.027

1

Escrow ID: WELLS FARGO REAL ESTATE TAX SERVICES

Bill #: 1295962

Taxpayer: LISA EBERT ET AL
504 4TH ST E
NORTHFIELD MN 55057-2216

FULL TAX AMOUNT:

\$4,110.00

FIRST 1/2 TAX AMOUNT DUE:

\$2,055.00

PENALTY:

MAKE CHECKS PAYABLE TO:

Rice County Auditor-Treasurer
320 3rd St NW Ste 5
Faribault MN 55021-6141



22062000270000 1 00000000205500 3

If your tax is \$100.00 or less, pay the entire tax by May 16, 2016 to avoid penalty.

Your cancelled check is proof of payment. Please write your Property ID # on your check. Postdated checks are not held. Only official U.S. Postmark determines payment mail date.

Automatic withdrawal plans are available in both quarterly and semi-annual installments.

EXHIBIT B

October 28, 2015 letter from Jim Kessler, Building Official, to Lisa M. Ebert

*Community Development Department
Building Inspections Division*

Lisa Ebert Et AL
504 4th St E
Northfield MN 55057

October 28, 2015

Ms. Ebert:

The City of Northfield has reviewed the building permits for the house at 504 4TH Street East. It appears the project may be abandoned. The building, plumbing and mechanical permits issued in 2012 have expired.

Please contact this office to review the project. We are concerned about the condition of the property; the safety of the neighborhood and the safety of first responders that may have to respond the address are also a major concern.

Thank you for your time and please contact me before November 6, 2015.

My direct number is 507-645-3021.

Sincerely,

James. M. Kessler
City of Northfield
Building Official

EXHIBIT C

March 25, 2016 Notice of Violation letter from Jim Kessler, Building Official

*Community Development Department
Building Inspections Division*

Lisa Ebert Et AL
504 4th St E
Northfield MN 55057

March 25, 2016

Ms. Ebert:

The City of Northfield has reviewed the building permits for the house at 504 4TH Street East. It appears the project may be abandoned. The building, plumbing and mechanical permits issued in 2012 have expired. We tried to meet with you last fall and we were unsuccessful in our ability to keep the permits active. The permits are now expired and any more construction activity at the property will be considered a violation of state law.

We have received numerous complaints about the property at 504 4th Street East. The main complaints are about outside storage of materials. The storage of materials is illegal in Northfield. You are in violation of the zoning ordinance for outside storage. You are hereby given notice to remove all materials stored outside of the buildings and from the porch at 504 4th Street East.

As we stated last fall we are concerned about the condition of the property, the safety of the neighborhood and the safety of first responders that may have to respond to the address.

Currently the property is considered an uninhabitable property. Any further construction at the property is a violation of State law, as there are no active building permits for the property. The material stored on the exterior if not removed by April 8, 2016 will be considered blight to the property and the violation will be turned over to the City Attorney for prosecution.

If you need additional time to remove the materials which are stored outside we will consider it if some sign of positive activity is observed at the property. My direct number is 507-645-3021.

Sincerely,

James. M. Kessler
City of Northfield
Building Official

*City Hall • 801 Washington Street • Northfield, Minnesota 55057
507.645.3021 • fax 507.645.3055 • e-mail: jim.kessler@ci.northfield.mn.us
L:\NORTHFIELD LEGAL\Code Violations\Junk properties\Ebert - 504 4th St E - 2016 - Junk property\Council Hearing\Ech C - March 23,
2016 Letter from Building Official 504 4th Lisa Ebert (2).docx*

EXHIBIT D
June 2, 2016 Citation

CITATION

State of Minnesota		Citation #: 660216900394		Sequential Citations <u>1</u> of <u>1</u>	
County Name: RICE		Identification <input type="checkbox"/> DL <input checked="" type="checkbox"/> DVS Web <input type="checkbox"/> Photo ID <input type="checkbox"/> FP <input type="checkbox"/> Other			
DL Number S909186261918		CDL State MN			
Name: First Middle Last Suffix LISA MARIE EBERT					
Address - Street, Apt # 504 4TH ST E					
City NORTHFIELD		State MN		Zip 55057	
DOB (mm/dd/yyyy) 01/18/1965		Height 5' 10"	Weight 210	Eyes HAZ	Gender F
<input type="checkbox"/> Juvenile Court	Parent or Guardian Name:		<input type="checkbox"/> Same address as Juvenile	Race U	
Veh. Lic. No.		Plate Year	State	Make	Style <input type="checkbox"/> 16+ pass
Date of Offense 06/02/2016		Time of Offense 11:43 am			
<input type="checkbox"/> Unsafe conditions Weather _____		<input type="checkbox"/> Endangering Life or Property "Court appearance required if checked"		<input type="checkbox"/> Commercial Vehicle DOT# #Pounds Overweight <input type="checkbox"/> Hazardous Materials	
<input checked="" type="checkbox"/> Driver	<input type="checkbox"/> Owner	<input type="checkbox"/> Passenger	<input type="checkbox"/> Operate	<input type="checkbox"/> Parked	<input type="checkbox"/> Booked
Offense Location 504 4TH ST E		City/County/Township/Other Of: Northfield66			
Offense Charge Description BLIGHT - JUNK/REFUSE OUTSIDE BUILDING		Statute/Ordinance 22.56.1	<input type="checkbox"/> 3rd Violation	PM, M, GM M	
Offense Charge Description		Statute/Ordinance	<input type="checkbox"/> 3rd Violation	PM, M, GM	
Offense Charge Description		Statute/Ordinance	<input type="checkbox"/> 3rd Violation	PM, M, GM	
Offense Charge Description		Statute/Ordinance	<input type="checkbox"/> 3rd Violation	PM, M, GM	
Speed Minn Stat		mph	Zone	<input type="checkbox"/> 3rd in 12 months	
No proof of Insurance Minn Stat.					
No Seat Belt Use Minn Stat. 169.688 1(a)					
AC Taken - AC: Test type: <input type="checkbox"/> Breath <input type="checkbox"/> Blood <input type="checkbox"/> Urine <input type="checkbox"/> Other Substance <input type="checkbox"/> Refused					
If this is a payable citation, you must pay the amount owed or schedule an appearance within 30 days from the date the citation was issued.					
Officer(s) Name(s) HAAN		Officer No(s) 6435AMH	Prosecutor MN066021A		
Controlling Agency (CAG) MN0660200		How issued <input checked="" type="checkbox"/> In Person <input type="checkbox"/> Mailed <input type="checkbox"/> Left at Scene		Date Issued 06/02/2016	
Agency Name: NORTHFIELD		CNI/CR 16000523			

Definitions	
COMMERCIAL VEHICLE: OVER 26,000 GVW OR BUS OR MORE PASSENGERS HAZARDOUS MATERIALS: ANY SIZE VEHICLE TRANSPORTING HAZARDOUS MATERIALS ENDANGERING LIFE OR PROPERTY: OFFICER BELIEVES AN OFFENSE WAS COMMITTED IN A MANNER THAT ENDANGERED LIFE OR PROPERTY. CHECKING THIS BOX WILL CONVERT A PETTY MISDEMEANOR OFFENSE TO A MISDEMEANOR AND WILL REQUIRE THE DEFENDANT TO APPEAR IN COURT. OFFICER NOTES ARE REQUIRED	
REMINDER FROM STATE PATROL: 31 mph OVER SPEED LIMIT IS ENDANGERING	
ROAD TYPE <input type="checkbox"/> RESIDENTIAL <input type="checkbox"/> RURAL <input type="checkbox"/> URBAN <input type="checkbox"/> DIVIDED	
UNSAFE CONDITIONS <input type="checkbox"/> IMPAIRED VISIBILITY <input type="checkbox"/> RAIN <input type="checkbox"/> SNOW <input type="checkbox"/> FOG <input type="checkbox"/> OTHER TRAFFIC PRESENT <input type="checkbox"/> FREEWAY <input type="checkbox"/> SLIPPERY ROADWAY	
<input type="checkbox"/> CAUSED PERSON OR VEHICLE TO DODGE (REMINDER: IF 2 OR MORE CONDITIONS EXIST, NOTE ON FRONT OF CITATION)	
VIOLATORS DIRECTION: _____ LANE: _____	
SQUAD DIRECTIONS: <input type="checkbox"/> SAME <input type="checkbox"/> FACE <input type="checkbox"/> STATIONARY <input type="checkbox"/> CAR LOCK <input type="checkbox"/> DEVICE	
OBSERVATIONS <input type="checkbox"/> VISUAL CONFIRMATION OF SPEED <input type="checkbox"/>	
TRAFFIC SURVEY: <input type="checkbox"/> NO OTHER TRAFFIC <input type="checkbox"/> OTHER	
DOPPLER AUDIO: <input type="checkbox"/> SINGLE TARGET <input type="checkbox"/> TERRAIN	
SPEED READINGS: _____ PATROL SPEED _____	
STOP LOCATION (STOP LOCATION MAY BE DIFFERENT THAN OFFENSE LOCATION. MUST FILL IN OFFENSE LOCATION ON FRONT OF CITATION)	
INSURANCE: _____ PASSENGERS: _____	
WARNING ISSUED: NO SEATBELT USE OBSERVED WHEN: <input type="checkbox"/> MEETING <input type="checkbox"/> FOLLOWING <input type="checkbox"/> AT STOP <input type="checkbox"/> ADMITTED	
STATEMENT BY DRIVER	
TRAFFIC STOP WAS: <input type="checkbox"/> AUDIO RECORDED <input type="checkbox"/> VIDEO RECORDED	
NOTES: NORTHFIELD CITY BUILDING INSPECTOR KESSLER INFORMED ME AS OF 6-01-2016 THE BLIGHT HAS NOT BEEN CLEANED UP. CITATION WILL BE GIVEN IN PERSON OR MAILED IF VIOLATOR IS NOT LOCATED. SEE SUPPLEMENT REPORT FOR INFO.	

EXHIBIT E
August 24, 2016 Notice and Order to Abate Nuisance



August 24, 2016

VIA CERTIFIED MAIL

Lisa M. Ebert
504 4th St. E.
Northfield, MN 55057

Victor W. Ebert
618 5th St E
Northfield MN 55057

Audrey M. Ebert
618 5th St E
Northfield MN 55057

Re: Notice and Order to Abate Nuisance: City Ordinance and State Statutory Violations at 504 4th St. E., Northfield, MN 55057

Dear Property Owner:

I am writing in my capacity as City Attorney for the City of Northfield, Minnesota (the "City") in regard to your property located at 504 4th St. E., Northfield, MN 55057. The City's Building Official and law enforcement officers have informed me that you have knowingly allowed or permitted construction and landscaping materials, equipment and supplies, junk and other debris to accumulate in plain sight, and weeds to grow in excess of one foot in height at the property located at 504 4th St. E., Northfield, MN 55057 (the "property"), in violation of State and City blight and public nuisance laws and ordinances, and further that you have failed to remedy such conditions despite receiving a written notice of violation from the City dated March 25, 2016, which prior notice is hereby incorporated herein by reference, and despite having received a criminal citation for such violation dated June 2, 2016.

BLIGHT AND PUBLIC NUISANCE VIOLATIONS

Specifically, City staff and law enforcement informs me that you have allowed the accumulation of construction and landscaping materials, junk and other debris, including but not limited to the following: pallets, stones, wood, concrete, scaffolding, porch roof, furniture, buckets, lumber tarp, miscellaneous tools and equipment laying around, shelves and various other debris, junk and miscellaneous items on the property in plain sight and allowed weeds to grow in excess of one foot in height in violation of the following City Code Section(s) and State Statutes:

1. City Code § 22-56 ("It is determined that the uses, structures and activities and causes of blight or blighting factors described in this article, if allowed to exist, will result in blighted and undesirable neighborhoods, so as to be harmful to the welfare, health and safety of the public. No person shall maintain or permit to be maintained any causes of blight or blighting factors upon any property ...")
2. City Code § 22-56.1 ("... the storage or accumulation of junk or other refuse shall not be kept outside of an enclosed structure. Building materials may be kept outside of an

- enclosed structure for a maximum of 30 days following the expiration of a building permit for which such material has been acquired. ...")
3. City Code § 22-56.2 ("In any area the existence of a structure which, because of fire, wind, natural disaster, or physical deterioration, is no longer suitable as a dwelling, nor useful for any other purpose for which it was intended, is prohibited.")
 4. City Code § 22-56.3 ("In any area zoned for residential purposes, the existence of a vacant dwelling, garage, or other outbuilding, unless such building is kept securely locked, the windows are kept glazed or neatly boarded up, and is otherwise protected to prevent entrance thereto by vandals, is prohibited.")
 5. City Code § 22-56.4 ("In any area, the storage of junk automobiles is prohibited. For the purpose of this subsection, the term "junk automobile" shall include any motor vehicle, part of a motor vehicle, or former motor vehicle, stored in the open, which is not currently licensed for use upon the highways of the state and is either:
 - a. Unusable or inoperable because of lack of or defects in component parts;
 - b. Unusable or inoperable because of damage from collision, deterioration, or having been cannibalized;
 - c. Beyond repair and therefore not intended for future use as a motor vehicle; or
 - d. Being retained on the property for possible use of salvageable parts.")
 6. City Code § 86-1.(b) ("Any weeds or grass growing upon any lot or parcel of land, excluding grass or forage crops used for agricultural purposes, planned landscaping purposes, and/or areas officially designated as wildlife areas, but including the lands between the curblineline of the street or alley and the property line of private properties, to greater height than one foot or are about to go to seed are declared to be a nuisance and dangerous to the health, safety and good order of the city.")
 7. Minn. Stat. § 609.74 ("Whoever by an act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:
 1. maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
 2. interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; oris guilty of any other act or omission declared by law to be a public nuisance and for which no sentence is specifically provided.")

A copy of the applicable City ordinance and state statute provisions are enclosed herewith and incorporated herein by reference as Exhibit 1. Pictures depicting the blight and nuisance conditions on the property are also enclosed herewith and incorporated herein by reference as Exhibit 2.

Lisa M. Ebert, Victor W. Ebert and Audrey M. Ebert
August 23, 2016
Page 3 of 4

**NOTICE AND ORDER TO ABATE BLIGHT AND NUISANCE CONDITIONS -
APPEAL**

Pursuant Northfield City Code, section 22-57, you are hereby ordered, within ten (10) days of receiving this Notice and Order to remove and eliminate all of the above-identified blight and nuisance conditions from the property located at 504 4th St. E., Northfield, MN 55057. The property owner has the right to appeal this Order to the Northfield City Council, provided that any appeal must be submitted in writing to the City Clerk not later than the ten (10) days following receipt of this Notice and Order. If the property owner requests an appeal in compliance with section 22-57, a hearing before the Northfield City Council will be scheduled. Following the hearing, the City Council will determine whether a violation(s) is evident. Upon finding of a violation(s), the City Council shall order that the cited conditions be removed, stored or eliminated within ten (10) days of the Council making such Findings and Order.

COSTS OF ABATEMENT BY CITY

Pursuant to Northfield City Code, section 22-58, in the event that the City incurs costs associated with abating the blight and nuisance conditions on the property should you fail to correct such conditions within the time specified herein, the City intends to take all necessary actions to ensure the violation conditions are abated on the property and that the City recovers all the costs incurred by the City in doing so from you as the liable party. All costs incurred by the City in abating any of the above identified blight and nuisance conditions on the property, including but not limited to, hiring a City contractor or using City personnel to enter upon the property and clean up, abate, remove and eliminate the blight and nuisance conditions on the property, as well as, legal fees incurred on this matter and court costs in enforcing this Order and any subsequent Order of the City Council, are your responsibility for payment and you are specifically liable for the same. In the event that all such costs incurred by the City in this process are not timely paid by you upon your receipt of an invoice for the same from the City, such costs will be assessed against the property for payment in like manner as property taxes.

CRIMINAL VIOLATIONS

In addition to the foregoing, as this Notice and Order has previously advised you above, under City Code, a person convicted of violating any of the above-referenced City ordinances and/or state laws is also guilty of a criminal misdemeanor. Separate offenses shall also be deemed committed upon each day during which a violation occurs or continues. Misdemeanor offenses are punishable by a fine of up to \$1,000 and up to 90 days in jail. Minn. Stat. § 609.02, subd. 3 and Northfield City Code, section 1-8. Failure by you to timely remove the above-referenced blight and nuisance conditions will result in the City turning the matter over to the Prosecuting Attorney for consideration of additional criminal charges and prosecution.

Lisa M. Ebert, Victor W. Ebert and Audrey M. Ebert
August 23, 2016
Page 4 of 4

CORRECTIVE ACTION REQUIRED

If you wish to avoid the foregoing enforcement action on the above-described blight and nuisance conditions on the property, please demonstrate to the City Administrator that you have remedied such blight and nuisance conditions as required hereby by no later than 4:30 p.m., Friday, September 9, 2016.

As an alternative to you voluntarily abating the blight and nuisance conditions on the property stated herein, I have also enclosed a draft consent agreement to allow the City or its contracted agent to enter your property, abate the blight and nuisance conditions present on the property on your behalf, and assess the costs incurred by the City in doing so to your property. If you wish to avoid the above-described enforcement actions by the City, including criminal prosecution, and do not wish to perform the work yourself, please execute the enclosed consent agreement and return it to Ben Martig, the Northfield City Administrator, at Northfield City Hall, 801 Washington Street, Northfield, MN 55057 **by no later than 4:30 p.m. on Friday, September 9, 2016.** Entering into this agreement with the City will allow you to regain compliance with the applicable provisions of the City Code and State Statutes referenced above.

Please contact the City Administrator, Ben Martig, at (507) 645-3009 if you have any questions about this letter or wish to discuss this matter.

Sincerely,

FLAHERTY & HOOD, P.A.



Christopher M. Hood
City Attorney, City of Northfield

CMH/rts

Encls.

cc: Ben Martig, City Administrator, City of Northfield
Jim Kessler, Building Official, City of Northfield
Mortgagee: Norwest Mortgage, Inc., PO Box 5137, Des Moines, IA 50306-5137

EXHIBIT 1

Excerpts from Northfield City Code and State Statutes

10/11/2017 10:11:17

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.....
.....
.....

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EXHIBIT 1

Excerpts from Northfield City Code and State Statutes

NORTHFIELD CITY CODE

Sec. 1-8. - General penalty; continuing violations.

- (a) In this section the phrase "violation of this Code" means any of the following:
 - (1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
 - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
 - (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
 - (4) Counseling, aiding or abetting a violation of this Code as defined in this subsection.
- (b) In this section the phrase "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.
- (c) Except as otherwise provided by law or ordinance:
 - (1) A person convicted of a violation of this Code that is not a petty misdemeanor shall be punished by a fine of not more than \$1,000.00, imprisonment for a term not exceeding 90 days, or any combination thereof.
 - (2) A person convicted of a violation of this Code that is a petty misdemeanor shall be punished by a fine not exceeding \$300.00.
- (d) In any case a person convicted of a violation of this Code shall pay the costs of prosecution. Except as otherwise provided by law or ordinance:
 - (1) With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.
 - (2) With respect to other violations, each act constitutes a separate offense.
- (e) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.
- (f) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.

Sec. 14-122. - Miscellaneous requirements.

- ...
- (c) Refuse. The property owner shall provide an adequate number of refuse containers to contain the amount of refuse produced on the property. ...
- (d) Unused or discarded items. Discarded, unused, dilapidated or junk appliances, furniture, mattresses, building materials, and other items shall be promptly removed from the property.
- (e) Storage of items. Large amounts of combustible items and materials shall not be stored in attics or basements. ...
- (f) Energy conservation. Doors and windows shall be maintained in tight and draft free condition. Holes and cracks in foundations and exterior walls shall be filled.

(g) Blight prohibited; safe and sanitary conditions required. All rental properties shall conform to the following exterior property standards and maintenance requirements, in addition to any other property and maintenance standards and blight and nuisance regulations which may apply to the property (the most stringent requirements shall apply):

(1) Clean, safe and sanitary condition. All exterior property and premises shall be maintained in a clean, safe and sanitary condition.

...

(4) Weeds. All exterior property and premises shall be maintained free from weeds and other plant growth in excess of six inches. Weeds shall be defined as all grasses, annual plants and vegetation other than trees, shrubs and cultivated flowers and gardens.

...

(6) Accessory structures. All accessory structures shall be maintained structurally sound and in good repair.

(7) Motor vehicles. No inoperable or unlicensed motor vehicle shall be parked, kept or stored outside of a completely enclosed structure on any rental property.

...

(9) Exterior maintenance, generally. The exterior of a structure shall be maintained in good repair and in a sanitary condition.

(10) Protective treatment. All exterior surfaces including but not limited to siding, doors, windows, door and window frames, cornices, porches, trim, balconies, chimneys, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained in a weather resistant and water tight condition. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

...

(12) Foundation walls. All foundation walls shall be maintained free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

(13) Exterior walls. All exterior walls shall be free from holes, breaks and loose or rotting materials and shall be maintained weatherproof and properly surface coated where required to prevent deterioration.

(14) Roofs and drainage. Roofs and flashing shall be sound, tight and shall not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

...

(20) Windows, skylights, doors and frames. Every window, skylight, door and door frame shall be kept in sound condition, good repair and weather tight.

...

Sec. 14-98. - Specifically prohibited acts.

Whoever does any of the following, in addition to any other violation of this article without limitation, shall be guilty of a misdemeanor and shall be subject to all available criminal and civil penalties and other remedies: ...

- (6) Blight and nuisance violations. Creates, maintains, allows or permits on rental property any condition which constitutes a blight or nuisance as defined or described by this article or by any other applicable law or regulation.

Sec. 22-56. - Causes of blight or blighting factors.

It is determined that the uses, structures and activities and causes of blight or blighting factors described in this article, if allowed to exist, will result in blighted and undesirable neighborhoods, so as to be harmful to the welfare, health and safety of the public. No person shall maintain or permit to be maintained any causes of blight or blighting factors upon any property such as follows:

- (1) With the exception of a permitted junkyard or salvage yard, the storage or accumulation of junk or other refuse shall not be kept outside of an enclosed structure. Building materials may be kept outside of an enclosed structure for a maximum of 30 days following the expiration of a building permit for which such material has been acquired. For purposes of this subsection, the term "junk" is defined as any material or substance which does not serve, nor is it intended to serve, any useful purpose or the purpose for which it was originally intended. Junk is considered to include but not be limited to refuse, empty cans, bottles, debris, used furniture and appliances, and so forth.
- (2) In any area the existence of a structure which, because of fire, wind, natural disaster, or physical deterioration, is no longer suitable as a dwelling, nor useful for any other purpose for which it was intended, is prohibited.
- (3) In any area zoned for residential purposes, the existence of a vacant dwelling, garage, or other outbuilding, unless such building is kept securely locked, the windows are kept glazed or neatly boarded up, and is otherwise protected to prevent entrance thereto by vandals, is prohibited.
- (4) In any area, the storage of junk automobiles is prohibited. For the purpose of this subsection, the term "junk automobile" shall include any motor vehicle, part of a motor vehicle, or former motor vehicle, stored in the open, which is not currently licensed for use upon the highways of the state and is either:
 - a. Unusable or inoperable because of lack of or defects in component parts;
 - b. Unusable or inoperable because of damage from collision, deterioration, or having been cannibalized;
 - c. Beyond repair and therefore not intended for future use as a motor vehicle; or
 - d. Being retained on the property for possible use of salvageable parts.

Sec. 22-57. - Abatement by property owner on order of city.

- (a) The city shall determine what conditions evidence a violation of this article. Upon identification of a violation, notification by certified letter or personal service shall be issued to the owner of the property which evidences any violation of this article. The notice shall identify the nature of the violation and the requirements of this article and shall order that the cited conditions be removed, stored or eliminated within ten days of receiving the notice. Upon receipt of the notification, the property owner shall proceed with alleviating the violation. Such time periods required for compliance may be extended by the city administrator or designee if extraordinary or unusual conditions exist which unreasonably preclude the property owner from complying with this article.
- (b) The property owner may appeal the order to the city council, provided that any appeal must be submitted in writing to the city not later than the ten days following receipt of the notice of violation.
- (c) If the property owner requests an appeal in compliance with this section, a hearing before the city council shall be scheduled. Following the hearing, the city council shall determine whether a violation

is evident. Upon finding of a violation, the city council shall order that the cited conditions be removed, stored or eliminated within ten days.

Sec. 22-58. - Abatement by city.

- (a) If an appeal from the city council's order given pursuant to section 22-57 is not made to district court within ten days following the city council's decision and the property owner has not brought the property into compliance with this article as ordered, the city shall initiate action to eliminate the violation.
- (b) The city shall proceed with making the necessary arrangements to have the cited violation removed, stored, or eliminated so as to comply with this article and other applicable sections of this Code as enforced by the city. Any and all costs that may be incurred by the city to alleviate the cited violation shall be the property owner's obligation.
- (c) The city shall request a determination of value from the property owner. If the material or substance is claimed by the property owner to have monetary value, the city shall arrange to have the material or substance stored for a period not to exceed ten days. If the material or substance is not claimed by the property owner during the period of storage, the material or substance shall be considered as abandoned property with no monetary value and shall be disposed of. Any and all costs that may be incurred by the city to collect, store and/or dispose of any material or substance in accordance with this section shall be the property owner's obligation.
- (d) Failure by a property owner to reimburse the city for any reasonable costs incurred concerning the enforcement of this article shall be cause to certify the costs to the county auditor as a special assessment against the property in question.

Sec. 62-31. - Garbage and refuse containers.

...

- (b) No person shall place or deposit garbage or refuse for collection upon any premises in the city, except in containers, the characteristics of which may be prescribed from time to time by resolution of the city council.

...

- (d) All refuse set out for collection in the city shall be placed in a container, unless the volume is such that it is impossible or impractical to do so. If it is impossible or impractical to do so, it shall be the duty of the person accumulating such refuse to promptly arrange for hauling such refuse to a proper disposal site.

Sec. 86-1. - Weeds.

- (a) The term "weeds," as used in this section means not only such noxious weeds as are enumerated in Minn. Stat. § 18.77 and acts amendatory thereto, but also such useless and troublesome plants as are commonly known as weeds to the general public. Weeds shall also be construed to mean all rank vegetable growth which exhales unpleasant or noxious odors, and also high and rank vegetable growth that may conceal filthy deposits.
- (b) Any weeds or grass growing upon any lot or parcel of land, excluding grass or forage crops used for agricultural purposes, planned landscaping purposes, and/or areas officially designated as wildlife areas, but including the lands between the curblin of the street or alley and the property line of private properties, to greater height than one foot or are about to go to seed are declared to be a nuisance and dangerous to the health, safety and good order of the city.
- (c) When any conditions exist on any lot or parcel of land within the city limits violative of subsection (b) of this section, it shall be the duty of the public works director/city engineer to serve a notice on the owner or occupant of the lot or parcel of land, ordering such owner or agent to have such weeds or grass cut and removed or the weeds sprayed within ten days after the service thereof. The notice shall also state that for noncompliance, the work will be done by the public works director/city engineer at the owner's expense. When such premises shall appear to be vacant and unoccupied or

when the owner or occupant cannot be found, notice may be served by posting it upon the premises in a conspicuous place.

- (d) Upon the failure of the owner, occupant or agent to comply with the provisions of the notice and after the expiration of ten days, the public works director/city engineer shall cut and remove the weeds or grass or spray the weeds and shall determine the cost thereof and charge the owner of the premises therewith and shall report the costs thereof to the council at the next regular meeting thereof, at which time any person objecting shall be heard.
- (e) If no objection is made or if the council shall find that the work was properly done, the amount of such cost shall be reported to the county auditor as for other special assessments, and the auditor shall cause the cost to be assessed, levied and collected in one payment, provided that within 30 days after the report of the public works director/city engineer is made to the council, the amount of such cost may be paid to the treasurer.

MINNESOTA STATUTES

609.74 PUBLIC NUISANCE.

Whoever by an act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

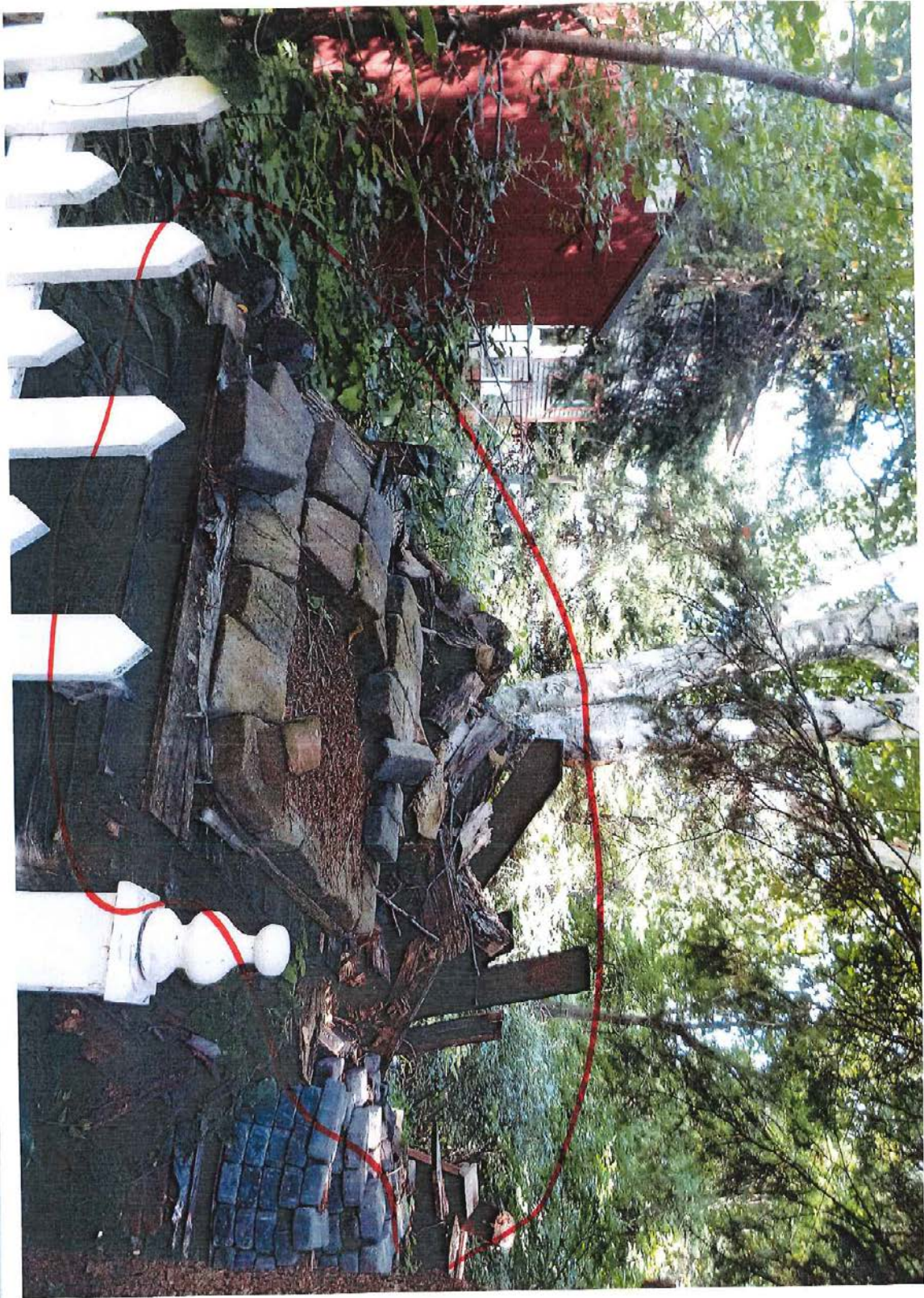
- (1) maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
- (2) interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- (3) is guilty of any other act or omission declared by law to be a public nuisance and for which no sentence is specifically provided.

609.745 PERMITTING PUBLIC NUISANCE.

Whoever having control of real property permits it to be used to maintain a public nuisance or lets the same knowing it will be so used is guilty of a misdemeanor.





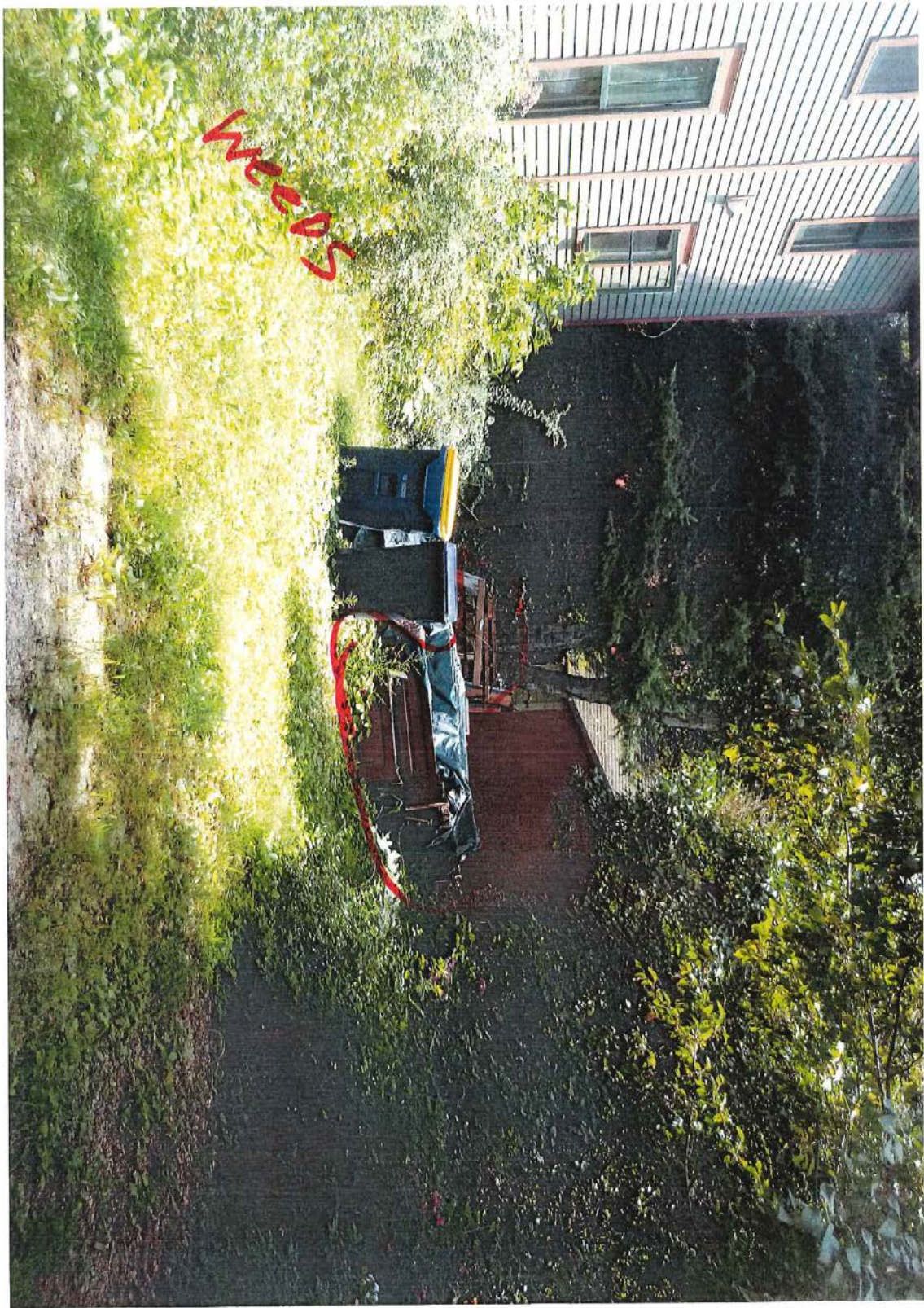




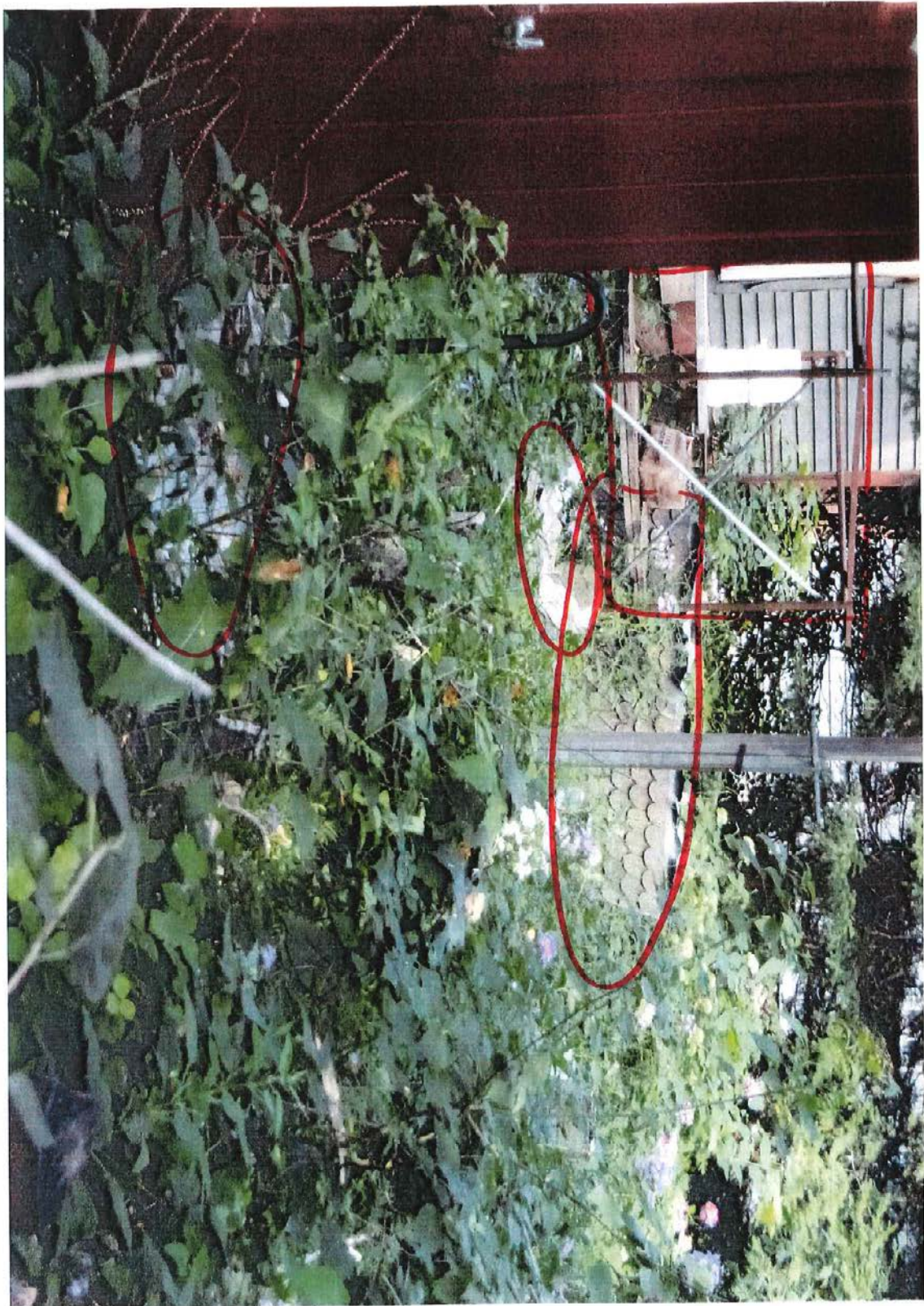












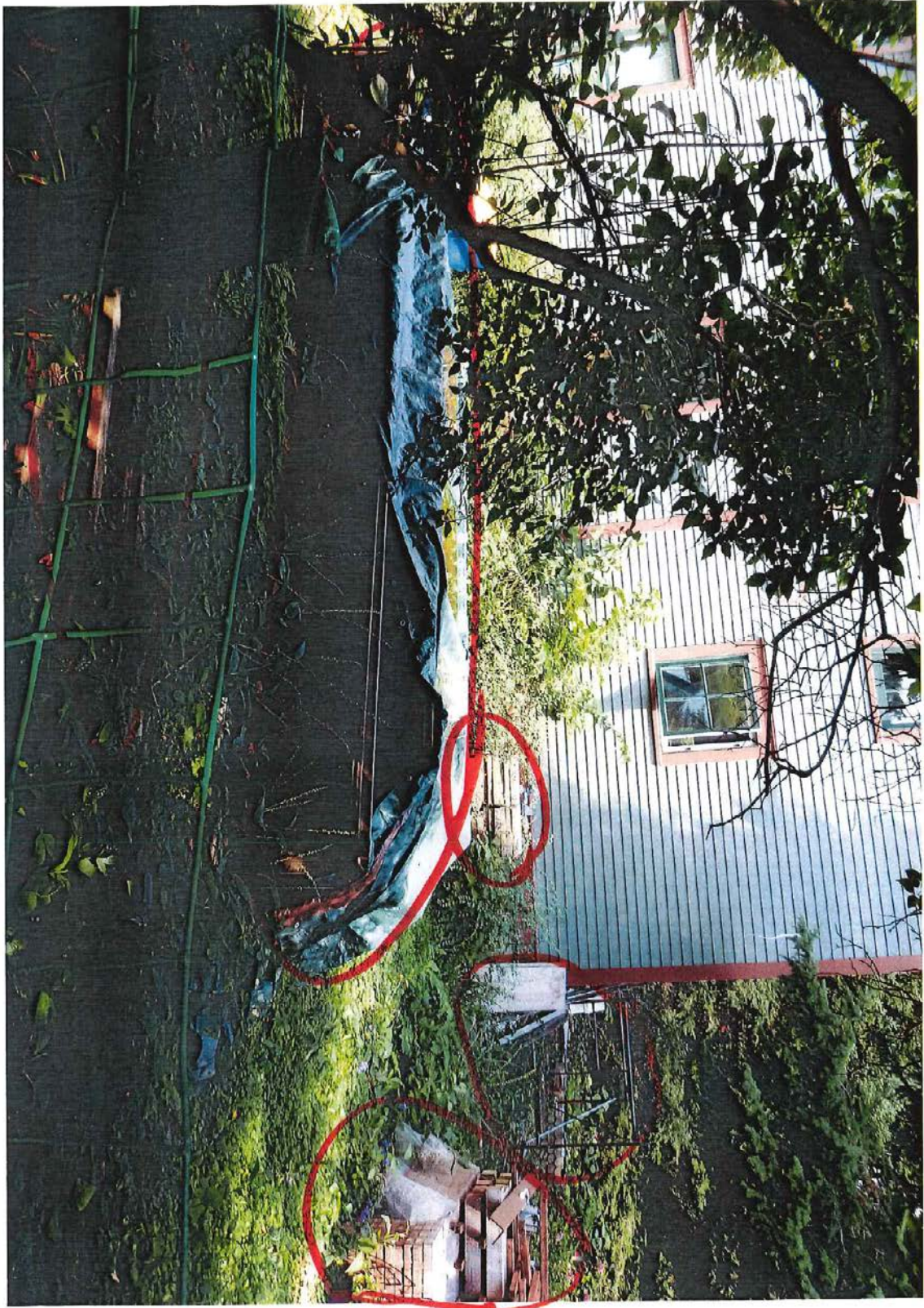


EXHIBIT F
September 28, 2016 Notice of Hearing



September 28, 2016

VIA CERTIFIED MAIL

Lisa M. Ebert
504 4th St. E.
Northfield, MN 55057

Victor W. and Audrey M. Ebert
618 5th St E
Northfield MN 55057

Re: Notice of Hearing: City Ordinance and State Statutory Violations at 504 4th St. E., Northfield, MN 55057

Dear Property Owner:

I am writing you once again in my capacity as City Attorney for the City of Northfield, Minnesota (the "City") in regard to your property located at 504 4th St. E., Northfield, MN 55057. By letter dated August 24, 2016, you were provided a Notice and Order to Abate Nuisance for your property located at 504 4th St. E., Northfield, MN 55057 (the "property"). In that Notice and Order to Abate Nuisance, which is incorporated herein by reference, you were ordered to remove and eliminate all of the blight and nuisance conditions identified therein and were further notified that if you wished to avoid an enforcement action on the identified blight and nuisance conditions on the property, you were required to demonstrate to the City Administrator that you had remedied the identified blight and nuisance conditions present on the property as described in that Notice and Order to Abate Nuisance by no later than 4:30 p.m., Friday, September 9, 2016. Following two extensions granted to you by the City's Building Official and following sight verification thereof, you have to date failed to remove the identified blight and nuisance conditions on the property as ordered. Additional pictures depicting the blight and nuisance conditions on the property are also enclosed herewith and incorporated herein by reference as Exhibit 1.

NOTICE OF HEARING

As a result of your failure to take the ordered remedial action, **please take notice that pursuant to City Code, Section 22-57 and 22-58, the Northfield City Council will conduct a public hearing to consider the blight and public nuisance conditions on the property as described in the August 24, 2016 Notice and Order to Abate Nuisance at its regular City Council meeting on Tuesday, October 18, 2016, at 7:00 pm. This public hearing is your opportunity to be heard on this matter in order to present any evidence or arguments you believe the City Council should consider regarding the ordinance and state law violations identified in the August 24, 2016 Notice and Order to Abate Nuisance.**

CITY COUNCIL ABATEMENT ORDER

At the above-noticed public hearing before the Northfield City Council, City staff will be requesting that the City Council adopt and issue an **Order of Abatement** declaring the identified conditions to constitute blight and be a public nuisance in violation of City Code and State law

Lisa M. Ebert, Victor W. Ebert and Audrey M. Ebert
September 28, 2016
Page 2 of 3

and directing City staff and the City Attorney to take all appropriate actions to abate, remove and eliminate from the property the blight and nuisance conditions identified in the August 24, 2016 Notice and Order to Abate Nuisance. In the event that the City Council issues the **Order of Abatement** as requested, the City staff and City Attorney will thereafter seek subsequent summary enforcement thereof through an action filed in District Court authorizing the City and/or the City's contracted agent to enter upon the property and abate, remove and eliminate the identified blight and nuisance conditions and violations from the property at your cost and expense.

COSTS OF ABATEMENT BY CITY

Pursuant to Northfield City Code, section 22-58, all costs incurred by the City in abating any of the identified blight and nuisance conditions on the property, including but not limited to, hiring a City contractor or using City personnel to enter upon the property and clean up, abate, remove and eliminate the identified blight and nuisance conditions on the property, as well as, the City's legal fees incurred on this matter and court costs in enforcing the August 24, 2016 Notice and Order to Abate Nuisance or any subsequent Order of Abatement adopted and issued by the City Council, are your responsibility for payment and you are specifically liable for the same. In the event that all such costs incurred by the City in this process are not timely paid by you upon your receipt of an invoice for the same from the City, such costs will be subsequently assessed against the property for payment by you in like manner as property taxes.

CRIMINAL VIOLATIONS

In addition to the foregoing, under City Code, a person convicted of violating any of the City ordinances and/or state laws identified in the August 24, 2016 Notice and Order to Abate Nuisance is also guilty of a criminal misdemeanor. Separate offenses shall also be deemed committed upon each day during which a violation occurs or continues. Misdemeanor offenses are punishable by a fine of up to \$1,000 and up to 90 days in jail. See Minn. Stat. § 609.02, subd. 3 and Northfield City Code, section 1-8. Failure by you to timely remove the blight and nuisance conditions identified in the August 24, 2016 Notice and Order to Abate Nuisance will result in the City turning the matter over to the Prosecuting Attorney for consideration of additional criminal charges and prosecution.

ORDER AND CORRECTIVE ACTION REQUIRED

You are again hereby ordered to remove and eliminate all of the blight and nuisance conditions from the property as identified in the August 24, 2016 Notice and Order to Abate Nuisance. If you wish to avoid the foregoing noticed City Council hearing and subsequent enforcement action against you regarding the identified blight and nuisance conditions on the property, please demonstrate to the City Administrator that you have remedied such blight and nuisance conditions as required by no later than 4:30 p.m., Monday, October 17, 2016.

Lisa M. Ebert, Victor W. Ebert and Audrey M. Ebert
September 28, 2016
Page 3 of 3

As an alternative to you voluntarily abating, eliminating and removing all of the identified blight and nuisance conditions on the property, I have also again enclosed a **Consent Agreement** to allow the City or the City's contracted agent to enter your property, abate, eliminate and remove the identified blight and nuisance conditions present on the property on your behalf. In the event that you sign and return the **Consent Agreement** to the City, the costs incurred by the City associated with the clean-up will be invoiced or subsequently assessed to you and your property. If you wish to avoid the above-described enforcement actions by the City, including criminal prosecution, and do not wish to perform the work yourself prior to the deadline stated herein, please execute the enclosed **Consent Agreement** and return it to Ben Martig, the Northfield City Administrator, at Northfield City Hall, 801 Washington Street, Northfield, MN 55057 **by no later than 4:30 p.m. on Monday, October 17, 2016**. Entering into the **Consent Agreement** with the City will allow you to regain compliance of the property, but you will nonetheless be responsible for the costs incurred by the City in removing the blight and nuisance conditions from the property on your behalf.

Please contact the City Administrator, Ben Martig, at (507) 645-3009, if you have any questions about this letter or wish to discuss this matter.

Sincerely,

FLAHERTY & HOOD, P.A.



Christopher M. Hood
City Attorney, City of Northfield

CMH/rts

Encl.

cc: Ben Martig, City Administrator, City of Northfield
Jim Kessler, Building Official, City of Northfield

























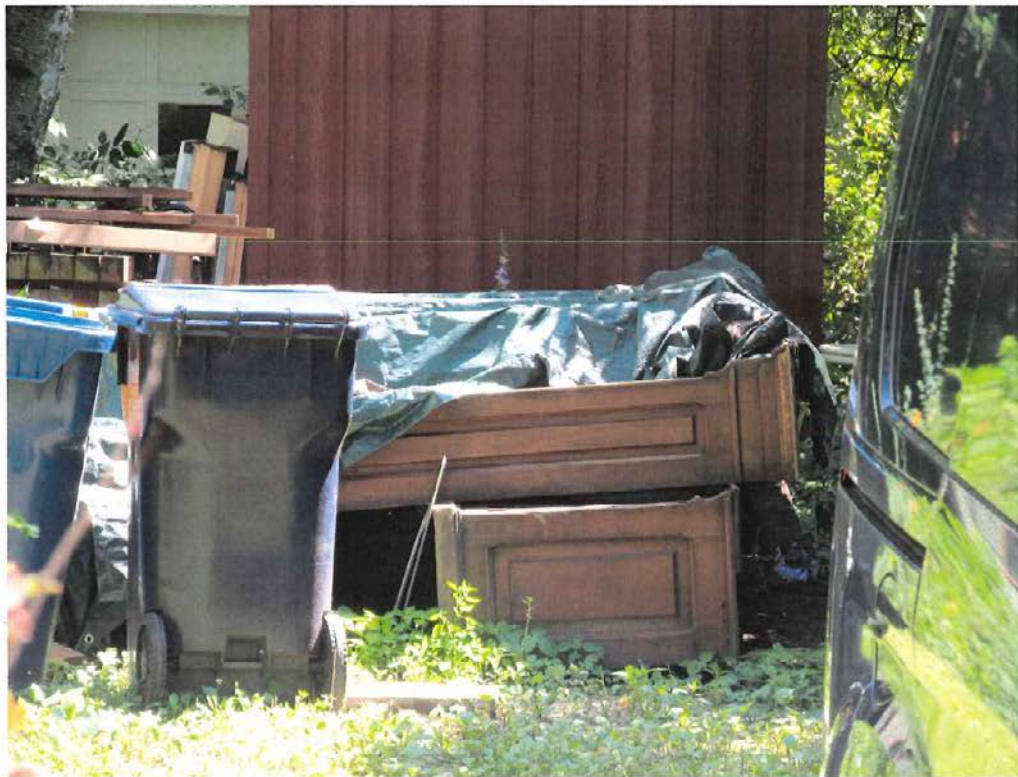


EXHIBIT G
Consent Agreement

**AGREEMENT AND CONSENT TO REMOVAL OF
BLIGHT AND NUISANCE CONDITIONS BY CITY/CONTRACTOR**

THIS AGREEMENT is made by Lisa M. Ebert, Victor W. Ebert and Audrey M. Ebert (the "Owner") and the City of Northfield, a municipal corporation under the laws of the State of Minnesota (the "City").

The parties hereto represent and affirm that:

WHEREAS, Lisa M. Ebert, Victor W. Ebert and Audrey M. Ebert are the owners of real property located at 504 4th St. E. in the City of Northfield, County of Rice, State of Minnesota, Parcel Number: 22.06.2.00.027, (the "Property"); and

WHEREAS, the Owner has allowed blight and nuisance conditions to occur and now exist on the Property in violation of Northfield City Code as provided in that certain Notice and Order letter dated August 24, 2016 provided to the Owner, which Notice and Order to Abate Nuisance is attached hereto and incorporated herein by reference as Exhibit A (the "blight and nuisance conditions"); and

WHEREAS, the Owner understands that the Owner has the right to remove the blight and nuisance conditions stated in Exhibit A herself or themselves or hire an independent contractor to remove the blight and nuisance conditions on the Property; and

WHEREAS, the Owner has requested that the City or its contractor enter upon the Property and remove the blight and nuisance conditions provided in Exhibit A; and

WHEREAS, the City is willing, using City employees or contracting with a contractor, to remove the blight and nuisance conditions stated in Exhibit A on the Property, provided that the Owner consents, in writing, to the City or its authorized contractor entering upon the Property and abating, removing and eliminating all of the blight and nuisance conditions identified in Exhibit A from the Property and subsequently charging all of the costs thereof incurred by the City in so acting to the Owner, which costs if unpaid by the Owner within thirty days of such City invoice, will be charged/assessed by the City against the Property.

NOW THEREFORE, the parties hereto agree as follows:

1. The recitals hereto are incorporated herein by reference.
2. The Owner hereby agrees and consents to the City and/or the City's contractor or agent entering upon the Property and removing all of the blight and nuisance conditions located on the Property as identified in the City's Notice and Order to Abate Nuisance dated August 24, 2016 attached hereto and incorporated herein by reference as Exhibit A. The Owner understands, acknowledges and agrees that the cost thereof will be charged by the City to the Owner, and which cost if unpaid by the Owner within thirty days of such City invoice, will subsequently be charged/assessed by the City against the Property as a special assessment certified to Rice County to be collected in like manner with property taxes on the Property. The Owner acknowledges the benefit to the Property and to the Owner of having the City or

the City's contractor or agent remove the blight and nuisance conditions on the Property, and hereby waives any objections or rights of appeal which Owner may otherwise have with respect to the costs of removing the blight and nuisance conditions or the subsequent assessment of such costs in the event the same are not timely paid by the Owner.

3. The City estimates the cost to remove the blight and nuisance conditions from the Property one time to be approximately \$4,000.00.
4. The City shall contact the Owner to notify the Owner of the date when the City or its contractor or agent will enter upon the Property for the purpose of removing the blight and nuisance conditions thereon as identified in Exhibit A. Such notice to the Owner shall be provided to the Owner at least twenty-four hours in advance.
5. This Agreement shall inure to the benefit of and be binding upon the successors in interest of all parties.

Owner:

Dated: _____

Lisa M. Ebert

Dated: _____

Victor W. Ebert

Dated: _____

Audrey M. Ebert

Accepted by:

CITY OF NORTHFIELD

Dated: _____

By: _____
Ben Martig, Its: City Administrator

EXHIBIT H
Excerpts from Northfield City Code and State Statutes

NORTHFIELD CITY CODE

Sec. 1-8. - General penalty; continuing violations.

- (a) In this section the phrase "violation of this Code" means any of the following:
- (1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
 - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
 - (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
 - (4) Counseling, aiding or abetting a violation of this Code as defined in this subsection.
- (b) In this section the phrase "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.
- (c) Except as otherwise provided by law or ordinance:
- (1) A person convicted of a violation of this Code that is not a petty misdemeanor shall be punished by a fine of not more than \$1,000.00, imprisonment for a term not exceeding 90 days, or any combination thereof.
 - (2) A person convicted of a violation of this Code that is a petty misdemeanor shall be punished by a fine not exceeding \$300.00.
- (d) In any case a person convicted of a violation of this Code shall pay the costs of prosecution. Except as otherwise provided by law or ordinance:
- (1) With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.
 - (2) With respect to other violations, each act constitutes a separate offense.
- (e) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.
- (f) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.

Sec. 22-56. - Causes of blight or blighting factors.

It is determined that the uses, structures and activities and causes of blight or blighting factors described in this article, if allowed to exist, will result in blighted and undesirable neighborhoods, so as to be harmful to the welfare, health and safety of the public. No person shall maintain or permit to be maintained any causes of blight or blighting factors upon any property such as follows:

- (1) With the exception of a permitted junkyard or salvage yard, the storage or accumulation of junk or other refuse shall not be kept outside of an enclosed structure. Building materials may be kept outside of an enclosed structure for a maximum of 30 days following the expiration of a building permit for which such material has been acquired. For purposes of this subsection, the term "junk" is defined as any material or substance which does not serve, nor is it intended to serve, any useful purpose or the purpose for which it was originally intended. Junk is considered to include but not be limited to refuse, empty cans, bottles, debris, used furniture and appliances, and so forth.

- (2) In any area the existence of a structure which, because of fire, wind, natural disaster, or physical deterioration, is no longer suitable as a dwelling, nor useful for any other purpose for which it was intended, is prohibited.
- (3) In any area zoned for residential purposes, the existence of a vacant dwelling, garage, or other outbuilding, unless such building is kept securely locked, the windows are kept glazed or neatly boarded up, and is otherwise protected to prevent entrance thereto by vandals, is prohibited.
- (4) In any area, the storage of junk automobiles is prohibited. For the purpose of this subsection, the term "junk automobile" shall include any motor vehicle, part of a motor vehicle, or former motor vehicle, stored in the open, which is not currently licensed for use upon the highways of the state and is either:
 - a. Unusable or inoperable because of lack of or defects in component parts;
 - b. Unusable or inoperable because of damage from collision, deterioration, or having been cannibalized;
 - c. Beyond repair and therefore not intended for future use as a motor vehicle; or
 - d. Being retained on the property for possible use of salvageable parts.

Sec. 22-57. - Abatement by property owner on order of city.

- (a) The city shall determine what conditions evidence a violation of this article. Upon identification of a violation, notification by certified letter or personal service shall be issued to the owner of the property which evidences any violation of this article. The notice shall identify the nature of the violation and the requirements of this article and shall order that the cited conditions be removed, stored or eliminated within ten days of receiving the notice. Upon receipt of the notification, the property owner shall proceed with alleviating the violation. Such time periods required for compliance may be extended by the city administrator or designee if extraordinary or unusual conditions exist which unreasonably preclude the property owner from complying with this article.
- (b) The property owner may appeal the order to the city council, provided that any appeal must be submitted in writing to the city not later than the ten days following receipt of the notice of violation.
- (c) If the property owner requests an appeal in compliance with this section, a hearing before the city council shall be scheduled. Following the hearing, the city council shall determine whether a violation is evident. Upon finding of a violation, the city council shall order that the cited conditions be removed, stored or eliminated within ten days.

Sec. 22-58. - Abatement by city.

- (a) If an appeal from the city council's order given pursuant to section 22-57 is not made to district court within ten days following the city council's decision and the property owner has not brought the property into compliance with this article as ordered, the city shall initiate action to eliminate the violation.
- (b) The city shall proceed with making the necessary arrangements to have the cited violation removed, stored, or eliminated so as to comply with this article and other applicable sections of this Code as enforced by the city. Any and all costs that may be incurred by the city to alleviate the cited violation shall be the property owner's obligation.
- (c) The city shall request a determination of value from the property owner. If the material or substance is claimed by the property owner to have monetary value, the city shall arrange to have the material or substance stored for a period not to exceed ten days. If the material or substance is not claimed by the property owner during the period of storage, the material or substance shall be considered as abandoned property with no monetary value and shall be disposed of. Any and all costs that may be incurred by the city to collect, store and/or dispose of any material or substance in accordance with this section shall be the property owner's obligation.
- (d) Failure by a property owner to reimburse the city for any reasonable costs incurred concerning the enforcement of this article shall be cause to certify the costs to the county auditor as a special assessment against the property in question.

Sec. 86-1. - Weeds.

- (a) The term "weeds," as used in this section means not only such noxious weeds as are enumerated in Minn. Stat. § 18.77 and acts amendatory thereto, but also such useless and troublesome plants as are commonly known as weeds to the general public. Weeds shall also be construed to mean all rank vegetable growth which exhales unpleasant or noxious odors, and also high and rank vegetable growth that may conceal filthy deposits.
- (b) Any weeds or grass growing upon any lot or parcel of land, excluding grass or forage crops used for agricultural purposes, planned landscaping purposes, and/or areas officially designated as wildlife areas, but including the lands between the curblineline of the street or alley and the property line of private properties, to greater height than one foot or are about to go to seed are declared to be a nuisance and dangerous to the health, safety and good order of the city.
- (c) When any conditions exist on any lot or parcel of land within the city limits violative of subsection (b) of this section, it shall be the duty of the public works director/city engineer to serve a notice on the owner or occupant of the lot or parcel of land, ordering such owner or agent to have such weeds or grass cut and removed or the weeds sprayed within ten days after the service thereof. The notice shall also state that for noncompliance, the work will be done by the public works director/city engineer at the owner's expense. When such premises shall appear to be vacant and unoccupied or when the owner or occupant cannot be found, notice may be served by posting it upon the premises in a conspicuous place.
- (d) Upon the failure of the owner, occupant or agent to comply with the provisions of the notice and after the expiration of ten days, the public works director/city engineer shall cut and remove the weeds or grass or spray the weeds and shall determine the cost thereof and charge the owner of the premises therewith and shall report the costs thereof to the council at the next regular meeting thereof, at which time any person objecting shall be heard.
- (e) If no objection is made or if the council shall find that the work was properly done, the amount of such cost shall be reported to the county auditor as for other special assessments, and the auditor shall cause the cost to be assessed, levied and collected in one payment, provided that within 30 days after the report of the public works director/city engineer is made to the council, the amount of such cost may be paid to the treasurer.

MINNESOTA STATUTES

609.74 PUBLIC NUISANCE.

Whoever by an act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

(1) maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or

(2) interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or

(3) is guilty of any other act or omission declared by law to be a public nuisance and for which no sentence is specifically provided.

609.745 PERMITTING PUBLIC NUISANCE.

Whoever having control of real property permits it to be used to maintain a public nuisance or lets the same knowing it will be so used is guilty of a misdemeanor.