



STAFF REPORT

TO: Mayor Fischer and Members of the City Council

FROM: Heidi Heller, City Clerk/HR Manager
Corrin Wendell, Community Development Director

DATE: May 10, 2023

RE: Add Chapter to City Code for Administrative Enforcement of City Code Violations

ACTION TO BE CONSIDERED

Approve amending the City Code to add a chapter for an administrative enforcement of City Code violations process and fine structure, and add administrative fines to the Fee Schedule.

BACKGROUND

City staff sees the need for additional options to encourage compliance when there is a City Code violation but compliance does not occur after multiple letters, or there are repeat violations at the same address. Currently, the system in place alerts the property owner of a violation with a letter and gives them 10-14 days to correct the violation. If they did not comply, then another letter is mailed with another time period in which to comply. After that step, the Code directs staff to go to City Council for abatement and/or legal action (a court citation). In between these steps would be a logical way to attempt to get compliance through accelerating fines that can be issued to the violators prior to issuing a court citation. Similar communities utilize this type of system and City Staff finds that it would be beneficial for Little Canada to have this process in place. A court citation can be a lengthy process and staff only wants to use this as a last resort, but there are always a few properties with violations where they are not complying with only a letter asking for cooperation.

Staff has drafted a new Chapter 3301 for the City Code titled “Administrative Enforcement of City Code Violations.” The purpose of this new chapter is to add an administrative fine system which would be the step between the letters and court citations, along with details on the process for abatements and appeals. This chapter also adds language that will allow unpaid abatement costs and fines to be assessed to the property. This chapter of administrative enforcement is not limited to only nuisances, it can be used for violations of any chapter in the City and Zoning Code.

Amendments to City Code Chapter 601, Nuisance, are also proposed in order to remove language that is better addressed in the new Chapter 3301.

The Fee Schedule is proposed to be amended to add the new Administrative Fines. Staff proposes the fines be set at \$100 for the first offense or notice of violation, \$250 for the second offense or notice and \$500 for the third and subsequent offenses or notices.

An example of how the accelerating fines would be used is: property A has junk in the front yard. A letter is mailed giving the owner 14 days to remove the items. A second letter is mailed after 14 days with no compliance or contact from the owner. After another 14 days with no compliance or contact, a third letter is mailed with a \$100 fine. After another 14 days with no compliance or contact, a fourth letter is mailed with a \$250 fine (this is in addition to the \$100 fine). After another 14 days with no compliance or contact, a fifth letter is mailed with a \$500 fine. Any further fines for this same case would be capped at \$500. It would be staff's discretion to determine at what point a court citation may be issued for non-compliance.

STAFF RECOMMENDATION

Staff recommends Council adopt Ordinances 869, 872 and 873 as follows:

1. Adopt Ordinance 869 adding Chapter 3301, Administrative Enforcement of City Code Violations, and approve publication of a summary ordinance.
2. Adopt Ordinance 873, Amending Chapter 601, Nuisance, and approve publication of a summary ordinance.
3. Adopt Ordinance 874, Amending the Fee Schedule to add Administrative Fines and approve publication of a summary ordinance.

**CITY OF LITTLE CANADA
RAMSEY COUNTY
STATE OF MINNESOTA
ORDINANCE NO. 869**

**AN ORDINANCE ADDING LITTLE CANADA CITY CODE CHAPTER 3301,
ADMINISTRATIVE ENFORCEMENT OF CITY CODE VIOLATIONS**

The City Council of the City of Little Canada, Ramsey County, Minnesota does hereby ordain:

SECTION 1. The City Council of the City of Little Canada hereby adds new Chapter 3301 to the Little Canada Municipal Code as follows:

CHAPTER 3301 ADMINISTRATIVE ENFORCEMENT OF CITY CODE VIOLATIONS

3301.010 FINDINGS.

The City Council has determined that the health, safety, good order, general welfare and convenience of the public is threatened by certain public nuisances or violations of this Code on property within the city limits and finds the need for alternative methods of enforcing this Code. There are certain negative consequences for both the city and the accused by using only criminal fines and penalties, and the delay in that system does not ensure prompt resolution. Accordingly, the City Council finds that the use of abatement, administrative hearings and administrative citations is an addition to any other legal remedy that may be pursued. The City has the option to utilize any of the following procedures to enforce this Code. These procedures may be used separately, or in combination, to alleviate the violation.

3301.020 ABATEMENT.

- A. Application. This article shall apply to the abatement of all public nuisances and other violations as defined within this Code unless another procedure is specifically provided.
- B. Inspections and Investigations.
 - 1. Periodic inspections. The City Administrator and/or designee shall cause to be inspected all public and private places within the city which might contain a public nuisance or violation as defined in Chapter 601 of this Code as often as practicable to determine whether any such conditions exist. The City Administrator and/or designee shall also investigate all reports of public nuisances located within the city.
 - 2. Entry on public and private places. The City Administrator or their duly authorized agents may enter upon all public and private places at any reasonable time for the purposes of inspecting those places for public nuisances.

C. Abatement procedure.

1. Abatement authorization. Upon a determination by the City Administrator and/or designee that a public nuisance or violation of this Code exists on any public or private property within the city, the City Administrator and/or designee shall order the public nuisance or violation to be abated in a manner consistent with this Code.
2. Procedure for removal of public nuisances. Whenever the City Administrator and/or designee finds within reasonable certainty that a public nuisance or violation exists on any public or private property in the city, they shall:
 - a. Notify the affected property owner by personal service, posting on primary door of structure, U.S. mail, or by certified mail, that the nuisance or violation must be abated within the time designated on the notice, or 14 days from the date of service of the notice. If the owner of the property is unknown or absent and has no known representative upon whom notice can be served, service may be had by posting a writing or printed notice on the property.
 - (1) The notice shall state with specificity the nature of the nuisance or violations and the requirements for compliance.
 - (2) With the exception to abatements for long grass, weeds and urgent public health or safety issues, any notice that accompanies a fine, citation or pending abatement shall also state that the property owner may, within 14 days of the date of the order, request a hearing before the Community Development Director or City Administrator, or for appeals of the settlement hearing, City Council, and shall set out the procedure by which that hearing may be requested.
 - (3) The notice shall also state that failure to abate the nuisance or violation, or request a hearing within the applicable time periods will result in abatement procedures, and that the cost of abatement with penalties and interest will be billed to the property owner. Pursuant to applicable state statutes, any unpaid fees and fines will be charged against the benefitted property via special assessment under Minnesota Statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments not exceeding ten, as the Council may determine in each case.
 - (4) The notice shall state that any items removed from the property by the City or the City's designee, will be held for 15 days prior to disposal. Within those 15 days, the property owner can reclaim any items held by the City or the City's designee after

paying all fees incurred by the city associated with the abatement. If the property owner does not contact the city within 15 days to reclaim the items, all items will be disposed of or sold. Any abated items that are reclaimed and returned to the property by the property owner that are found to be in violation of this article shall be abated immediately by the City and will be assessed a new fee for the abatement according to the City's fee schedule.

- (5) Any item that is deemed hazardous, considered a public health nuisance or consists of yard waste, brush, wood or grass clippings may be disposed of immediately and is exempt from the holding period.
- (6) A property owner may waive the 15-day holding period and request all abated items are immediately disposed of provided that it is requested at least 48 hours prior to the scheduled abatement, excluding weekends and observed holidays.
 - (a) Upon expiration of the time required by the notice, the City Administrator and/or designee shall notify the property owner of the date on which the nuisance or violation will be abated and proceed with the abatement, unless a request for a hearing has been timely filed.
 - (b) The City shall, within seven (7) days after any appeal period has expired or as soon as it can be reasonably accomplished, have the property abated in accordance with this section.
 - (c) Once a property has been approved for abatement, the City reserves the right to enter the property to remove the public nuisance completely, if the work is not able to be fully carried out in one day, the City can return until the nuisance is completely abated.
- (7) A property owner may enter into a stipulated abatement agreement with the City if they wish to be brought into compliance, however, they do not have the means to do so. The owner waives any and all objection to the City abating the property allowed under ordinance, as well as any objection to assessment to the property taxes as allowed by Minnesota State Statute.

3. Hearing Procedure. Any property owner who feels aggrieved by an order of the City Administrator and/or designee issued pursuant to this article, may request a hearing before the City Council.

- a. Request.

- (1) Such request shall identify with specificity the basis for the property owner's objection to the interpretation of this Code and notice of violation.
 - (2) Such request shall be filed in writing with the Community Development Department within 14 days after the date of the service of the notice by the City Administrator and/or designee.
- b. Conference.
- (1) The Community Development Director shall schedule a conference to be conducted no more than 10 days after receipt of the hearing request. A later date may be mutually agreed upon by the parties. The conference will be held between the City and the property owner to encourage a resolution prior to a hearing brought before the City Council.
 - (2) If after the conference, no resolution has been made, the Community Development Director or designee, shall notify the property owner of the date, time and place of the hearing.
- c. Hearing.
- (1) A hearing shall be conducted during the first available City Council meeting after an appeal request from the conference is received. Appeals to the conference must be received within 10 days of final resolution of the conference unless a later date is mutually agreed to by the property owner and the City.
 - (2) Both the property owner and the City may appear at the hearing with Council and may call such witnesses and present such evidence relevant to the case.
 - (3) Any history of the property owner's prior violations shall be deemed relevant and admissible as evidence.
- d. Resolution.
- (1) A decision shall be made to affirm, repeal or modify the order of the City at the conclusion of the conference. Within 14 days after such conference, the findings of fact and final decision shall be provided to the property owner.
 - (2) Any person aggrieved by the decision reached during the conference may appeal that decision to the City Council by filing notice, in writing, of such appeal with the Community Development Department within 10 days of the decision reached during the conference.
 - (3) Within 30 days of the filing of a notice of appeal of the conference's decision, the City Council shall review the decision and findings of fact reached during the conference and shall affirm, repeal or modify that decision.

The City shall take no action to abate any nuisance or violation while the matter is still pending.

4. Implementation of hearing or City Council determination. Upon a final determination by the Conference, or the City Council if the determination of the conference is appealed, the City shall implement the decisions accordingly.
 - a. If it is determined during the Conference or the City Council hearing that no public nuisance or violation exists, then the City shall notify the affected property owner in writing to confirm the determination of the conference or City Council, and all abatement processes shall be ceased.
 - b. If the conference or the City Council finds that a public nuisance or violation of this Code does exist, then the City shall notify the affected property owner by personal service, posting notice on primary entry to home or building, or by certified mail that the nuisance must be abated within 14 days from the date of service of the notice. Service by certified mail shall be deemed complete upon mailing.
 - (1) The order shall also state that failure to abate the nuisance within the applicable time period will result in summary abatement procedures, and that the cost of abatement will be assessed against the subject property.
 - (2) Upon expiration of the time required by the notice, the City Administrator and/or designee may abate the nuisance or violation.
5. Abated property storage.
 - a. Any items, other than hazardous materials, public health nuisances, and grass, weeds and brush removed from the property by the City or the City's designee will be held for 15 days prior to disposal.
 - b. Within those 15 days, the property owner can reclaim any items held by the City or the City's designee after paying all fees incurred by the City associated with the abatement.
 - c. If the property owner does not contact the City within 15 days to reclaim the items, all items will be disposed of or sold.
 - d. Any abated items that are reclaimed and returned to the property by the property owner that are found to be in violation of this article, shall be abated immediately by the City without the need to begin a new abatement process.
 - e. The property owner may request the items stored to be disposed of anytime within the 15-day storage period, excluding weekends and observed holidays. The property owner will only be billed for the time stored until the disposal request is made.

6. Abatement costs and billing. The City Administrator and/or designee, shall keep a record of the costs of abatement performed for which the property owner shall be billed. The invoice shall state and certify the description of the land, parcels involved and the amount assessable to each. To cover administrative costs necessarily incurred in the abatement procedure, an administrative fee in the amount of not more than 25% of the cost to abate the nuisance shall be imposed, except that in no event shall the administrative fee be less than \$250.
7. Certification of unpaid abatement costs to Ramsey County Auditor. On or before October 1 of each year, the City Administrator and/or designee, shall list the total unpaid charge for each abatement or administrative citation against each separate parcel to which they are attributable under this article. After notice and hearing as provided in Minn. Stats. §429.061, the City Council may then spread the charges against property benefitted as a special assessment under Minn. Stats. §429.101 and other pertinent statutes for certification to the Ramsey County Auditor and collection along with current taxes the following year, or in annual installments, not exceeding ten, as the City Council may determine in each case.
8. Interference prohibited. It is a misdemeanor for any person to prevent, delay or interfere with the City or its agents while they are engaged in the performance of duties set forth in this article.

3301.030 ADMINISTRATIVE CITATION.

- A. Application. An administrative citation may be issued in conjunction with, or in lieu of, prosecution or abatement for any violation of any section of this Code, and is subject to the administrative hearing process described herein.
- B. Notice. The City Administrator and/or designee, or any member of law enforcement, upon determining there has been a violation, shall notify the violator, or person responsible for the violation, or in the case of a vehicular violation, by attaching to said vehicle, notice of the violation, said notice setting forth the nature, date, time of the violation, the name of the official issuing the notice and the amount of the scheduled initial penalty and where applicable, any other charges relating thereto.
- C. Penalties. Upon expiration of the time required by the notice and the nuisance has not been abated by the property owner, an administrative citation may be issued.
 1. An administrative civil penalty shall be imposed per the City's rates for each violation.
- D. Payment. Once such notice is given, the person responsible for the violation shall, within 14 days of the time of issuance of the notice, pay the full amount of the stated violation to the City. Payment of the penalty shall be admission of the violation.
- E. Appeals. Any disputes and appeals shall be heard during a conference or appeals hearing, unless otherwise defined, and shall follow procedure set forth in this article.

F. Failure to pay. If a violator fails to pay the penalty imposed by this section, the matter may be abated, certified to property taxes and/or prosecuted, in accordance with this article.

3301.040 PROSECUTION. Nothing in this article shall prohibit the City from seeking prosecution as a misdemeanor for any violation of this article.

3301.050 PENALTIES. Penalties and costs of abatement procedures shall be imposed according the City's adopted fee schedule.

3301.060 SEPARABILITY. Every section, provision or part of this Chapter is declared separable from every other section, provision or part, and if any section, provision or part hereof shall be held invalid, it shall not affect other section, provision or part.

SECTION 2. REPEAL OF CONFLICTING ORDINANCES. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. In any section, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance or any part thereof.

SECTION 4. This ordinance shall take effect and be in full force from and after its adoption and publication.

Adopted this 10th day of May, 2023

By: _____
Thomas Fischer, Mayor

Attest: _____
Christopher Heineman, City Administrator

AYES:
NAYS:

Published May 14, 2023

**CITY OF LITTLE CANADA
RAMSEY COUNTY
STATE OF MINNESOTA
ORDINANCE NO. 873**

**AN ORDINANCE AMENDING LITTLE CANADA CITY CODE
CHAPTER 601, NUISANCE**

The City Council of the City of Little Canada, Ramsey County, Minnesota does hereby ordain:

SECTION 1. The City Council of the City of Little Canada hereby amends Chapter 601 of the Little Canada Municipal Code by ~~deleting~~ and adding the following language:

CHAPTER 601 NUISANCE

601.080. POWERS OF OFFICERS. Whenever, in the judgment of the City Official, it is determined upon investigation that a public nuisance is being maintained or exists within the City, the City Official shall notify the person committing or maintaining such public nuisance and require him or her to terminate and abate such nuisance and to remove such conditions or eliminate such defects. ~~Notice requiring abatement or removal must be served on the owner, occupant, or agent of the property by certified and United States mail, or personal service. If the owner of the property is unknown or absent and has no known representative upon whom notice can be served, service may be had by posting a written or printed notice on the property. Said notice shall require the owner, occupant, or agent to abate or remove said nuisance in a manner set forth in the notice within a period not longer than ten (10) days. The notice may also include a notice of intent to abate nuisance advising the owner, occupant, or agent that if the nuisance is not removed within ten (10) days, the nuisance will be abated or removed at the expense of the owner.~~

~~When an order so given is not complied with, such noncompliance shall be reported forthwith to the City Administrator for such action as may be necessary and deemed appropriate to abate and enjoin further continuation of said nuisance.~~

601.090. ABATEMENT OF NUISANCE BY COUNCIL: COST RECOVERY. If, after service of notice of intent to abate nuisance, the person served fails to abate the nuisance or make the necessary repairs, alterations or changes in accordance with the direction of the City Official, the City Council may cause such nuisance to be abated at the expense of the City and recover such costs against the person or persons served as described in Chapter 3301.020(C6). ~~To cover administrative costs necessarily incurred in the abatement and assessment procedure, an administrative fee in the amount of not more than 25% of the cost to abate the nuisance shall be imposed, except that in no event shall the administrative fee be less than \$250.00. As to any such costs, the City Council shall direct the City Administrator to extend such sums as an assessment against the property upon which the nuisance existed and shall certify the same to the Ramsey County Auditor for collection in the same manner as taxes and special assessments are certified and collected.~~

601.100. ACCELERATED ABATEMENT PROCESS FOR CERTAIN NUISANCES. The City Official charged with enforcement of this chapter may follow the accelerated procedure described below for abating accumulations of snow and ice, decaying garbage or similar organic matter and graffiti.

Whenever the City Official charged with enforcement determines that a nuisance proscribed under this chapter is being maintained or exists on premises in the city, written notice shall be served in person; or by posting the premises; or by regular or certified first-class mail to the property owner or occupant. The notice shall specify the nuisance to be abated, that the nuisance must be abated within 5 working days, and that if the nuisance is not abated within 5 working days, that the City will have the nuisance abated and the cost of abatement certified against the property for collection with taxes.

If the owner or occupant fails to comply with the notice within 5 days, the City shall provide for abatement of the nuisance. The City Official shall keep records of the cost of abatement and shall provide this information to the City Administrator for assessment against the property pursuant to ~~Section 601.080~~ [Chapter 3301.020\(C7\)](#) of this chapter.

601.130. PENALTIES. Any person who shall cause or create a nuisance, or permit any nuisance to be created or placed upon, or to remain upon any premises owned or occupied by him, and any person who shall fail to comply with any order made under the provisions of this Code is subject to administrative enforcement as described in Chapter 3301, or charges that, upon conviction thereof shall be guilty of a misdemeanor and shall be punished by a fine of not more than Two Thousand Dollars (\$2,000.00) or by imprisonment in the County jail for not more than ninety (90) days. Such penalty is in addition to the administrative fee that may be charged under ~~section 601.090 Abatement of Nuisance by Council~~ [Chapter 3301.020\(C7\)](#).

SECTION 2. REPEAL OF CONFLICTING ORDINANCES. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. In any section, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance or any part thereof.

SECTION 4. This ordinance shall take effect and be in full force from and after its adoption and publication.

Adopted this 10th day of May, 2023

By: _____
Thomas Fischer, Mayor

Attest: _____
Christopher Heineman, City Administrator

AYES:
NAYS:

Published May 14, 2023

**CITY OF LITTLE CANADA
RAMSEY COUNTY
STATE OF MINNESOTA
ORDINANCE NO. 874**

**AN ORDINANCE AMENDING THE FEE SCHEDULE FOR THE
CITY OF LITTLE CANADA TO ADD ADMINISTRATIVE FINES**

The City Council of the City of Little Canada hereby ordains:

Section 1.

The City of Little Canada Municipal Code is hereby amended to update the City's Fee Schedule for administrative fines as attached hereto in Exhibit A.

Section 2.

This ordinance shall take effect and be in full force on May 14, 2023 after its passage and publication.

Adopted this 10th day of May, 2023

By: _____
Thomas Fischer, Mayor

Attest: _____
Christopher Heineman, City Administrator

AYES:
NAYS:

Published May 14, 2023

**EXHIBIT A
FEE SCHEDULE AMENDMENT**

MISCELLANEOUS FEES

<u>Administrative Fines</u>	<u>\$100 – 1st Violation or Notice of Violation</u> <u>\$250 – 2nd Violation or Notice of Violation</u> <u>\$500 – 3rd Violation or Notice of Violation (all subsequent violations and notices will be \$500)</u>
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**CITY OF LITTLE CANADA
ORDINANCE NO. 869**

**ADDING CHAPTER 3301 ADMINISTRATIVE ENFORCEMENT OF CITY
CODE VIOLATIONS TO THE LITTLE CANADA CITY CODE**

THE CITY COUNCIL OF THE CITY OF LITTLE CANADA, MINNESOTA
ORDAINS: Chapter 3301 is added as follows:

SECTION 1. SUMMARY PUBLICATION. Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance:

The purpose of this ordinance is to add new City Code Chapter 3301, Administrative Enforcement of the City Code, for additional steps to encourage compliance of city code violations.

SECTION 2. Effective Date: This ordinance shall be effective immediately upon its passage and publication.

ADOPTED by the City Council of Little Canada this 10th day of May, 2023.

CITY OF LITTLE CANADA
Thomas Fischer, Mayor

ATTESTED BY:
Christopher Heineman, City Administrator

**CITY OF LITTLE CANADA
ORDINANCE NO. 873**

**AMENDING CHAPTER 601 NUISANCE OF THE
LITTLE CANADA CITY CODE**

THE CITY COUNCIL OF THE CITY OF LITTLE CANADA, MINNESOTA
ORDAINS: Chapter 601 is amended as follows:

SECTION 1. SUMMARY PUBLICATION. Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance:

The purpose of this ordinance is to update and amend City Code Chapter 601, Nuisance, to correspond with new City Code Chapter 3301 for Administrative Enforcement of the City Code.

SECTION 2. Effective Date: This ordinance shall be effective immediately upon its passage and publication.

ADOPTED by the City Council of Little Canada this 10th day of May, 2023.

CITY OF LITTLE CANADA
Thomas Fischer, Mayor

ATTESTED BY:
Christopher Heineman, City Administrator

**CITY OF LITTLE CANADA
ORDINANCE NO. 874**

AN ORDINANCE AMENDING THE FEE/RATE SCHEDULE FOR THE CITY OF LITTLE
CANADA TO ADD ADMINISTRATIVE FINES

THE CITY COUNCIL OF THE CITY OF LITTLE CANADA, MINNESOTA ORDAINS: The
Fee/Rate Schedule for the City of Little Canada is amended as follows:

SECTION 1. SUMMARY PUBLICATION. Pursuant to Minnesota Statutes Section 412.191, in
the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance
is available without cost at the office of the City Clerk, the following summary is approved by the
City Council and shall be published in lieu of publishing the entire ordinance:

The purpose of this ordinance is to amend the City Fee Schedule to add administrative
fines.

SECTION 2. Effective Date: This ordinance shall be effective immediately upon its passage and
publication.

ADOPTED by the City Council of Little Canada this 10th day of May, 2023.

CITY OF LITTLE CANADA
BY: Thomas Fischer, Mayor

ATTEST: Christopher Heineman, City Administrator