



**City Council Work Session
Tuesday, July 2, 2024 at 6:00 PM
Public Meeting Room**

AGENDA

1. Call to Order

2. Items for Discussion

- A. City of Faribault Title VI Policy
- B. Administrative Citation Ordinance
- C. Amendments to Chapter 16- Nuisance Ordinance
- D. 2025 Budget- Review New Personnel Requests/Changes

3. Future Discussion

4. Adjournment

(The Council may meet as a group for dinner)

Please contact the City Administrator's Office if you need special accommodations while attending this meeting.

Para pedir este documento en otro idioma, envíe un correo electrónico y adjunte el documento a accessibility@faribault.org.

Si aad u codsato dukumeentigan oo ku qoran luqad kale, fadlan e-mail u soo dir oo ku soo lifaaq dukumiintiga accessibility@faribault.org.



Council Work Session Memorandum

TO: Mayor and City Council
THROUGH: Jessica Kinser, City Administrator
FROM: Mark DuChene, Director of Engineering
MEETING DATE: July 2, 2024
SUBJECT: City of Faribault Title VI Policy

Discussion:

Title VI of the Civil Rights Act of 1964 provides that no person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the grounds of race, color, or national origin under any program or activity receiving federal financial assistance. The City of Faribault, as a recipient of federal financial assistance, must comply with Title VI of the Civil Rights Act of 1964; 49 CFR Part 21 (Department of Transportation Regulations for the Implementation of Title VI of the Civil Rights Act of 1964); 49 CFR Part 303 (Civil Rights); and related statutes and regulations.

The attached policy was drafted for the City of Fairbault based on a template provided by MNDOT.

City Staff will review the attached policy with the Council at the work session, incorporate and changes requested by the Council and then bring back the policy for formal adoption at the July 9th regular city council meeting.

Attachments:

1. Subrecipient Title-VI-Plan-Citt of Faribault Final Draft



Title VI Plan for MnDOT FHWA Subrecipient
City of Faribault

July 9, 2024
(Date)

Prepared by: Mark DuChene, Director of Engineering

Title VI Plan Revision Log

Date Month/day/year	Section Revised	Summary of Revisions
07/09/2024	Plan established and approved	

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I. Introduction

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance. Several other federal legal authorities supplement Title VI by extending protections based on age, sex, disability, limited English proficiency, and low-income status. In addition, the Civil Rights Restoration Act of 1987 clarified Title VI enforcement by mandating that Title VI requirements apply to *all* programs and activities of federal-aid recipients regardless of whether any particular program or activity involves federal funds. Taken together, these laws require recipients and subrecipients of federal funds to ensure all programs and services are delivered to the public without discrimination.

City of Faribault, as a recipient of federal financial assistance, will ensure full compliance with Title VI of the Civil Rights Act of 1964; 49 C.F.R. Part 21 (Department of Transportation Regulations for the Implementation of Title VI of the Civil Rights Act of 1964); 49 C.F.R. Part 21; and related statutes and regulations. City of Faribault acknowledges it is subject to and will comply with Federal Highway Administration Title VI Assurances.

This plan explains the how City of Faribault incorporates the requirements of Title VI and related legal authorities into its operations. The plan will be used a reference for the City of Faribault and an informational resource for the public. The plan will be updated every 3 years to reflect changes in Title VI compliance operations.

II. Legal Authorities

City of Faribault Title VI compliance program is governed by many legal authorities, including, but not limited to, the list below.

Legal Authority	Summary
Title VI of the Civil Rights Act of 1964 , 42 U.S.C. § 2000d <i>et seq.</i>	Prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.
Federal-Aid Highway Act of 1973 , 23 U.S.C. § 324.	Prohibits discrimination on the basis of sex in programs and activities receiving federal financial assistance.
Age Discrimination Act of 1975 , 42 U.S.C. § 6101 <i>et seq.</i>	Prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance.
Section 504 of the Rehabilitation Act of 1973 , 29 U.S.C. § 794.	Prohibits discrimination on the basis of disability in programs and activities receiving federal financial assistance.
Uniform Relocation Act of 1970 , 42 U.S.C. § 4601 <i>et seq.</i>	Requires fair treatment of persons displaced by federal-aid programs and projects.
Environmental Justice Executive Order (Exec. Order No. 12898, 59 Fed. Reg. 7629 (Feb. 11, 1994).)	Requires federal agencies and federal-aid recipients to identify and address “disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations.”
Limited English Proficiency Executive Order (Exec. Order No. 13166, 65 Fed. Reg. 50121 (Aug. 11, 2000).)	Recipients of federal financial assistance must provide meaningful access to limited English proficiency (LEP) applicants and beneficiaries.
49 C.F.R. Part 21	Nondiscrimination in Federally-Assisted Programs of the Department of Transportation.
23 C.F.R. Part 200	Title VI Program and Related Statutes - Implementation and Review Procedures.

III. Title VI and Non-Discrimination Policy Statement

It is the policy of City of Faribault that no person shall on the grounds of race, color, national origin, sex, disability, or age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any operation of City of Faribault as provided by Title VI of the Civil Rights Act of 1964 and related statutes.

In addition, Executive Order No. 12898, 59 Fed. Reg. 7629 (Feb. 11, 1994) requires City of Faribault to ensure fair treatment and meaningful involvement of low-income populations in all programs and activities, and Executive Order No. 13166, 65 Fed. Reg. 50121 (Aug. 11, 2000) requires agency programs to incorporate access for people with limited English proficiency.

This policy applies to all operations of City of Faribault, including its contractors and anyone who acts on behalf of City of Faribault. This policy also applies to the operations of any department or agency to which City of Faribault extends federal financial assistance. Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance.

The Minnesota Human Rights Act prohibits discrimination in the provision of public services on the basis of race, color, creed, religion, national origin, sex, marital status, disability, gender identity, sexual orientation, and status with regard to public assistance. Public services are defined to include any department or agency managed by any city or county in Minnesota.

Prohibited discrimination may be intentional or unintentional. Seemingly neutral acts that have disparate impacts on individuals of a protected group and lack a substantial legitimate justification are a form of prohibited discrimination. Harassment and retaliation are also prohibited forms of discrimination.

Examples of prohibited types of discrimination based on race, color, national origin, sex, disability, or age include: Denial to an individual any service, financial aid, or other benefit; Distinctions in the quality, quantity, or manner in which a benefit is provided; Segregation or separate treatment; Restriction in the enjoyment of any advantages, privileges, or other benefits provided; and Discrimination in any activities related to highway and infrastructure or facility built or repaired.

Title VI compliance is a condition of receipt of federal funds. The Title VI Coordinator is authorized to ensure compliance with this policy, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.* and related statutes, and the requirements of 23 C.F.R. Part 200 and 49 C.F.R. Part 21.

Jessica Kinser, City Administrator

Date

IV. Title VI Assurances

The U.S. DOT requires that federal financial assistance be provided on the condition that the recipient provides an assurance that its programs and activities will be conducted in compliance with Title VI of the Civil Rights Act of 1964. The requirement is located at 49 CFR 21.7(a). To support the implementation of this requirement, the U.S. DOT provided an assurances agreement in U.S. DOT Order 1050.2A that federal fund recipients and subrecipients must sign as a condition of receiving federal financial assistance.

The assurances agreement provides specific non-discrimination language the City of Faribault is required to include in bid solicitations or requests for proposal, contracts, and real estate agreements. The City of Faribault is committed to ensuring the necessary language is used as prescribed in the assurance agreement.

In accordance with this requirement, the City of Faribault has signed the U.S. DOT Standard Title VI/Non-Discrimination Assurances. The document is attached as **Appendix A**.

V. Organization, Staffing, and Structure

Faribault's City Administrator is ultimately responsible for assuring full compliance with the provisions of Title VI of the Civil Rights Act of 1964 and related statutes and has directed that non-discrimination is required of all agency employees, contractors, and agents pursuant to 23 C.F.R. Part 200 and 49 C.F.R. Part 21.

City of Faribault has assigned Mark DuChene, Director of Engineering (or their successor), to perform the duties of the Title VI Coordinator and ensure implementation of the agency's Title VI program. The position of Director of Engineering is located within Engineering Department. The Title VI Coordinator will be in communication with the Communications Manager, Public Works Director, and the City Administrator in this work.

The Title VI Coordinator is responsible for:

- Maintaining and updating the Title VI plan on the agency's behalf;
- Ensuring relevant agency staff receive necessary Title VI training;
- Ensuring prompt processing of Title VI complaints and referral to Minnesota Department of Transportation;
- Developing procedures for the collection and analysis of statistical data;
- Developing a program to conduct Title VI reviews of program areas; and
- Developing Title VI information for dissemination internally and externally;

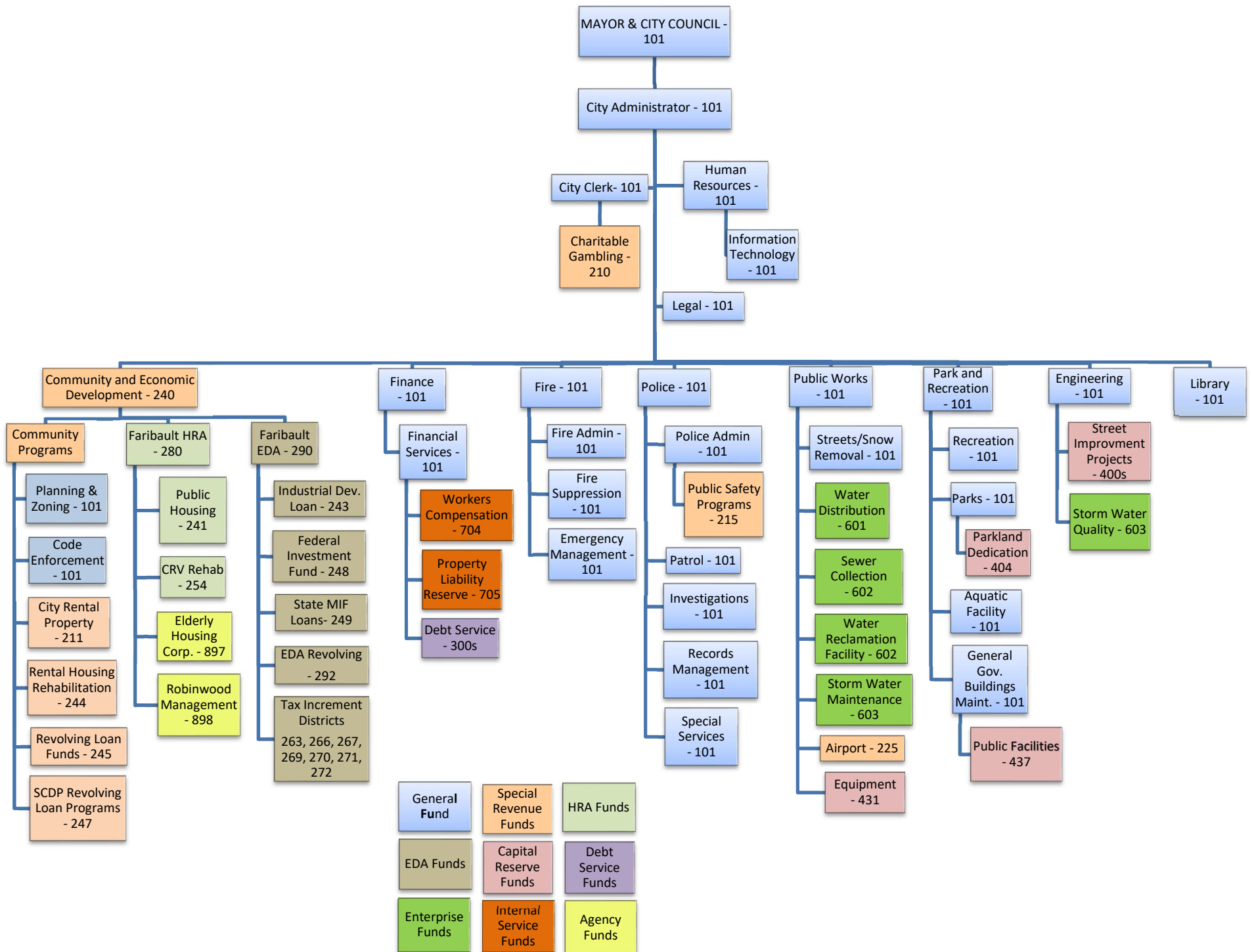
See the following page for the City of Faribault's organizational chart.

VI. Training

City of Faribault will ensure that its staff understand Title VI of the Civil Rights Act of 1964 and how it may apply to their work. The following options are available for providing training:

- Review of the City of Faribault Title VI Plan
- Attendance at any available Title VI trainings provided by the Minnesota Department of Transportation, U.S. Department of Transportation or its applicable operating administrations, or the U.S. Department of Justice.
- Viewing the video [Understanding and Abiding by Title VI of the Civil Rights Act of 1964](#) produced by the U.S. Department of Justice

City of Faribault will maintain records indicating that staff have received sufficient training on a periodic basis.



Primary Program Area Descriptions & Review Procedures

The City of Faribault engages in the following program areas:

Program Area	General Description	Title VI/Non-Discrimination Concerns and Responsibilities	Review Procedures for Ensuring Non-Discrimination
Right of Way	Issues public right of way permits for construction, transportation, business, and other activities. Coordinates relocation of citizens whose property has been acquired for a right of way.	Public right of way permits and relocations should not create unfair burdens for environmental justice communities. Ensuring property owners impacted by right of way activities are made aware of their right to be free from discrimination on the basis of race, color, or national origin under Title IV of the Civil Rights Act of 1964.	City will review permits and relocations to ensure nondiscrimination. City will begin planning how demographic data can be included in necessary right of way templates or forms. City will begin providing information about Title VI notice to property owners impacted by right of way activities.
Contracting	Develops and manages contracts and contracting opportunities, including specifications, bidding process, and contract execution.	Maintaining an open and fair bidding process for all contracts. Ensure Title VI Assurances appendices are included in contracts as specified within the assurances document.	City will begin reviewing contracts for necessary Title VI language. City will review any available data on contract recipients to ensure nondiscrimination in contracting. City will review bidding procedures to ensure nondiscrimination and equal opportunity.

Program Area	General Description	Title VI/Non-Discrimination Concerns and Responsibilities	Review Procedures for Ensuring Non-Discrimination
Planning	Short-term and long-term planning of transportation projects	Using equity-based analysis as part of planning process. Ensuring comprehensive public participation to meet environmental justice requirements. Collecting demographic data from public engagement activities regarding demographics of public participants. Providing language access as needed.	City will review planning decisions through equity lens to ensure nondiscrimination. City will review public engagement activities periodically to determine whether engagement opportunities were offered to all communities. City will be documenting language access requests. Ensure transparency and availability of City of Faribault Capital Improvement Plan
Public Engagement	Coordinates public engagement activities for planning and project development, as well as relationship-building engagement activities.	Comprehensive public participation to meet environmental justice requires. Collecting demographic data from public engagement activities regarding demographics of public participants. Providing language access as needed. Disseminating Title VI information to the public to ensure they are aware of their rights to be free from discrimination.	City will review public engagement activities periodically to determine whether engagement opportunities were offered to all communities. City will post a copy of its Title VI policy on its website, public notice board and at public buildings.

Program Area	General Description	Title VI/Non-Discrimination Concerns and Responsibilities	Review Procedures for Ensuring Non-Discrimination
Maintenance	Services roadways and right of ways, including, but not limited to, providing: • Repair • Signage • Drainage • Snow and ice removal	Ensuring no communities are subject to a disparate lack of maintenance services based on a protected class.	City will review resources provided to the community and determining whether any protected class communities have disproportionately benefited or been harmed by the delivery of maintenance services. City will annually review its snow and ice policy.

VII. Data Collection

Program Area	Type of Data Collected & Process for Collecting	Intended Outcome of Data Analysis (i.e. Title VI Purpose for Collecting the Data)
Right of Way	Collecting demographic data from property owners who may be subject to right of way activities by including inputs for demographic data on the field title report form.	City will ensure right of way activities do not disproportionately affect individuals or groups based on a protected class status.
Contracting	Identifying contractors who are a: - Disadvantaged Business Enterprise (DBE) by the Minnesota Unified Certification Program - Targeted Group Business (TGB) by the Minnesota Department of Administration - Veteran-Owned/Service-Disabled Business by the United States Department of Veterans Affairs	City will ensure equal opportunity in contracting to all individuals and groups.
Planning	Reviewing data from the U.S. Census Bureau and other credible sources to determine demographic make-up of the local community.	City will ensure project impacts do not disproportionately impact any individuals or groups based on a protected class status.
Public Engagement	Reviewing data from the U.S. Census Bureau and other credible sources to determine demographic make-up of the local community. Providing demographic questionnaires to public engagement participants and including demographic questions in public surveys.	City will ensure communications and interactions with the public sufficiently reach all local demographics.
Maintenance	Reviewing maintenance activities by geography and demographic makeup of communities receiving the maintenance services	City will ensure no communities are subject to a disparate lack of maintenance services based on a protected class.

Title VI Complaint Procedures

Scope of Title VI Complaints

No person or groups of persons shall, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by City of Faribault, and its contractors on the grounds of **race, color, creed, religion, national origin, sex, age, disability, marital status, sexual orientation gender identity, low-income status or status with regard to public assistance.**

The scope of Title VI covers all internal and external activities of City of Faribault.

The following types of actions are prohibited under Title VI protections (See [49 C.F.R. 21.5](#)):

- Excluding individuals or groups from participation in programs or activities
- Denying program services or benefits to individuals or groups
- Providing a different service or benefit or providing them in a manner different from what is provided to others
- Denying an opportunity to participate as a member of a planning, advisory or similar body that is an integral part of the program
- Retaliation for making a complaint or otherwise participating in any manner in an investigation or proceeding related to Title VI of the Civil Rights Act of 1964

The complaint procedure below is available from the Minnesota Department of Transportation (MnDOT) in [Spanish](#), [Somali](#), and [Hmong](#).

How to File a Formal Title VI Complaint

Any person(s) or organization(s) believing they have been discriminated against on the basis of the protected classes state above by City of Faribault or its contractors may file a Title VI complaint.

Discrimination complaints **must be received no more than 180 days after the alleged incident** unless the time for filing is extended by the processing agency.

Complaints should be in writing and signed and may be filed by mail, fax, in person, or e-mail. A complaint should contain the following information:

- A written explanation of the alleged discriminatory actions;
- The complainant's contact information, including, if available: full name, postal address, phone number, and email address;
- The basis of the complaint (e.g., race, color, national origin, etc.);
- The names of specific persons and respondents (e.g., agencies/organizations) alleged to have discriminated;

- Sufficient information to understand the facts that led the complainant to believe that discrimination occurred in a program or activity that receives Federal financial assistance; and
- The date(s) of the alleged discriminatory act(s) and whether the alleged discrimination is on-going.

Complainants are encouraged to submit complaints directly to Minnesota Department of Transportation (MnDOT) via its online complaint form available here:

<https://www.dot.state.mn.us/civilrights/nondiscrimination-complaint-form.html>.

Complaints can also be filed by completing and submitting City of Faribault's Title VI Complaint Form available at Appendix B or by sending an email or letter with the necessary information to:

City of Faribault
1200 Belview Trail, Faribault, MN 55021

Email: pw@ci.faribault.mn.us

Phone: 507.333.0361

The complaint form is also available in hard copy at City of Faribault City Hall at 208 NW 1st Avenue, Faribault, MN 55021 or the Public Works Building at 1200 Belview Trail, Faribault, MN 55021. Language assistance is available for limited English proficient individuals. MnDOT has hard copy complaint forms available in [Spanish](#), [Somali](#), and [Hmong](#). Other languages can be accommodated as needed.

If necessary, the complainant may the phone number above and provide the allegations by telephone. The Title VI Coordinator will transcribe the allegations of the complaint as provided over the telephone and send a written complaint to the complainant for correction and signature.

Complaints can also be filed directly with the following agencies:

Federal Highway Administration
U.S. Department of Transportation Office of Civil Rights
1200 New Jersey Avenue, SE
8th Floor E81-105
Washington, DC 20590
Email: CivilRights.FHWA@dot.gov
Fax: 202-366-1599
Phone: 202-366-0693

Minnesota Department of Transportation
Office of Civil Rights
385 John Ireland Boulevard, Mail Stop 170
St. Paul, MN 55105
Online: [Complaint Form](#)

Fax: 651-366-3129

Phone: 651-366-3073

After submitting a complaint, the complainant will receive a correspondence informing them of the status of the complaint within ten (10) business days of City of Faribault or other agency receiving the complaint.

Complaints received by City of Faribault's Title VI Coordinator are forwarded to the MnDOT Office of Civil Rights (OCR). MnDOT OCR will forward the complaint to the FHWA Minnesota Division Office, along with a preliminary processing recommendation. The FHWA Minnesota Division Office will forward the complaint to FHWA Headquarters Office of Civil Rights (HCR).

FHWA HCR is responsible for all determinations regarding whether to accept, dismiss, or transfer Title VI complaints. There are four potential outcomes for processing complaints:

- **Accept:** if a complaint is timely filed, contains sufficient information to support a claim under Title VI, and concerns matters under the FHWA's jurisdiction, then HCR will send to the complainant, the respondent agency, and the FHWA Minnesota Division Office a written notice that it has accepted the complaint for investigation.
- **Preliminary review:** if it is unclear whether the complaint allegations are sufficient to support a claim under Title VI, then HCR may (1) dismiss it or (2) engage in a preliminary review to acquire additional information from the complainant and/or respondent before deciding whether to accept, dismiss, or refer the complaint.
- **Procedural Dismissal:** if a complaint is not timely filed, is not in writing and signed, or features other procedural/practical defects, then HCR will send the complainant, respondent, and FHWA Minnesota Division Office a written notice that it is dismissing the complaint.
- **Referral\Dismissal:** if the complaint is procedurally sufficient but FHWA (1) lacks jurisdiction over the subject matter or (2) lacks jurisdiction over the respondent entity, then HCR will either dismiss the complaint or refer it to another agency that does have jurisdiction. If HCR dismisses the complaint, it will send the complainant, respondent, and FHWA Division Office a copy of the written dismissal notice. For referrals, FHWA will send a written referral notice with a copy of the complaint to the proper Federal agency and a copy to the USDOT Departmental Office of Civil Rights.

Complaints are not investigated by City of Faribault. FHWA HCR is responsible for investigating all complaints. FHWA HCR may also delegate the investigation to MnDOT OCR, who would then conduct all data requests, interviews, and analysis and create a Report of Investigation (ROI). MnDOT OCR will have sixty (60) business days from the date the investigation is delegated to prepare the ROI and send it to HCR. HCR will review the ROI and compose a Letter of Finding based on the ROI.

For further information about the FHWA investigation process and potential complaint outcomes, please visit the [Questions and Answers for Complaints Alleging Violations of Title VI of the Civil Rights Act of 1964](#).

VIII. Environmental Justice

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, requires federal agencies to make achieving environmental justice a part of its mission by identifying and addressing disproportionately high and adverse human health and environmental effects of their programs, policies, and activities on minority and low-income populations. The requirements are to be carried out to the greatest extent practicable and permitted by law.

In May 2012, USDOT issued an update to DOT Order 5610.2(a), DOT Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which was originally published in April 1997. The revised Order continues to be a key component of DOT's environmental justice strategy. It updates and clarifies certain aspects of the original Order while maintaining its general framework and procedures and DOT's commitment to promote the principles of environmental justice in all DOT programs, policies, and activities.

Similarly, City of Faribault will institutionalize the same key components of DOT's environmental justice strategy and commitment to promote the principles of environmental justice in all City of Faribault's programs, policies, and activities. These policies outline actions and factors to address environmental justice in order to identify and avoid discrimination and disproportionality high and adverse effects on minority and low-income populations:

1. Identify and evaluate environmental, public health, and interrelated social and economic effects of City of Faribault programs, policies, and activities;
2. Propose measures to avoid, minimize, and/or mitigate disproportionately high and adverse environmental and public health effects and interrelated social and economic effects, and provide offsetting benefits and opportunities to enhance communities, neighborhoods, and individuals affected by City of Faribault programs, policies, and activities, where permitted by law and consistent with Executive Order 12898;
3. Consider alternatives to proposed programs, policies, and activities where such alternatives would result in avoiding and/or minimizing disproportionately high and adverse human health or environmental impacts, consistent with Executive Order 12898; and
4. Elicit public involvement opportunities and consider the results thereof, including soliciting input from affected minority populations and low-income populations in considering alternatives.

City of Faribault supports environmental justice through every stage of the planning, construction and maintenance processes, consistent with the factors outlined above. This ensures City of Faribault gains input from the community that will help shape how City of Faribault builds and maintains roads, bridges, the local airport, and parks and trails.

Some ways in which the City of Faribault accomplishes this include:

- Striving to ensure the full and fair participation by all potentially affected communities in the transportation decision-making process;
- Working toward avoiding, minimizing or mitigating disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations;
- Striving to providing timely information to area residents and businesses affected by transportation plans and projects;
- Performing periodic reviews of public involvement process to gauge effectiveness, making revisions as necessary; and
- Preventing the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

IX. Public Participation

- City of Faribault will use the U.S. Census data to identify populations potentially impacted by projects conducted by the City. Surveys collecting the race, color, national origin, low-income status, disability, age, and sex of participants of City of Faribault programs and activities will be collected when appropriate.

Race & Ethnicity (2018-2022)		
White	16,327	66.9%
Of Color	7,105	29.1%
Black or African American alone	3,605	14.8%
American Indian and Alaskan Native alone	81	0.3%
Asian or Pacific Islander alone	346	1.4%
Other alone		
Two or more races alone	459	1.9%
Hispanic or Latino (of any race)	3,551	14.5%

- All public meetings and civic engagement opportunities are open to the public to participate in. The City communicates with its residents, including underserved populations, through its social media platforms (Facebook & Twitter), its monthly newsletter, utility bill inserts, website, community events, surveys at meetings and events, and neighborhood construction meetings.
- Resident notification letters are also sent to those potentially affected by road and utility projects taking place in their neighborhood, prior to the start of construction.
- City of Faribault City Council Meetings take place throughout the year and are open to the public. City of Faribault City Council Meetings schedule and locations can be found at <https://www.ci.faribault.mn.us/408/Meeting-Materials-and-Videos> These Meetings are also streamed live and recorded.

- Additionally, the City of Faribault has a number of dedicated web pages for each program area on the City website and the City of Faribault conducts planning and informational meetings to provide for public participation on projects and activities when appropriate. These meetings will include any Title VI accommodations required.
- The City of Faribault adheres to Equal Employment Opportunity/Affirmative Action and Civil Rights assurance policies, principles and imperatives within program planning, development, and implementation. These policies are essential components to bid documents and proposals.

X. Limited English Proficiency (LEP) & Language Access

Legal Background

[Executive Order 13166](#), “Improving Access to Services for Persons with Limited English Proficiency,” reprinted at 65 FR 50121, August 16, 2000, directs each Federal agency to examine the services it provides and to develop and implement a system by which LEP individuals can meaningfully access those services. Federal agencies were instructed to publish guidance to assist states and local governments who receive federal funds with their obligations to LEP individuals under Title VI. The Executive Order states that federal fund recipients, like City of Faribault, must take reasonable steps to ensure meaningful access to their programs and activities for LEP individuals.

Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, provides that no person shall “on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” Courts have interpreted Title VI’s prohibition of discrimination on the basis of national origin to include discrimination based on English proficiency. Under Title VI, recipients of federal financial assistance are required to provide LEP individuals with meaningful access to their programs and services.

The U.S. Department of Transportation (DOT) published [revised guidance](#) for its recipients on December 14, 2005. This document states that Title VI and its implementing regulations require that U.S. DOT recipients take reasonable steps to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for LEP individuals. Recipients use the DOT LEP Guidance to determine how best to comply with statutory and regulatory LEP obligations.

Identifying Limited English Proficient Populations (Four-Factor Analysis)

Title VI and its regulations require City of Faribault to take reasonable steps to ensure meaningful access to its information and services. What constitutes reasonable steps to ensure meaningful access is flexible, fact-dependent, and contingent on a four-factor analysis established by the U.S. Department of Justice. The four-factor analysis is an individualized assessment that should be applied to determine what reasonable steps must be taken to ensure meaningful access for LEP individuals. **The analysis below is updated at least once every five years.**

FACTOR #1: THE NUMBER OR PROPORTION OF LEP INDIVIDUALS ELIGIBLE TO BE SERVED OR LIKELY TO BE ENCOUNTERED

The greater the number or proportion of LEP individuals from a particular language group served or encountered in the eligible service population, the more likely language assistance services are necessary. Ordinarily, “individuals eligible to be served or likely to be encountered” by a program or activity are those who are in fact, served or encountered in the eligible service

population. This population will be program-specific and includes people who are in the program's geographic area.

City of Faribault should first examine their prior experiences with LEP individuals and determine the breadth and scope of language assistance services needed. It is also important to include LEP populations that are eligible beneficiaries of programs, activities, or services but may be underserved because of existing language barriers.

Generally, City of Faribault will use reliable external data sources to determine the number or proportion of LEP individuals likely to be served or encountered.

City of Faribault relies on [MnDOT's LEP Data Tool](#) to provide the necessary data. **In the most recent analysis conducted in November 2023, the findings on the next two pages were documented.**

American Community Survey (5-Year Estimate 2015-2019, Table ID C16001)



Limited English Proficiency: City

Data source: American Community Survey (ACS) 5-year estimate (2017-2021)

City ACS Limited English Proficiency

County ACS Limited English Proficiency

Students' Primary Home Language

Filter by City

Reset

Faribault

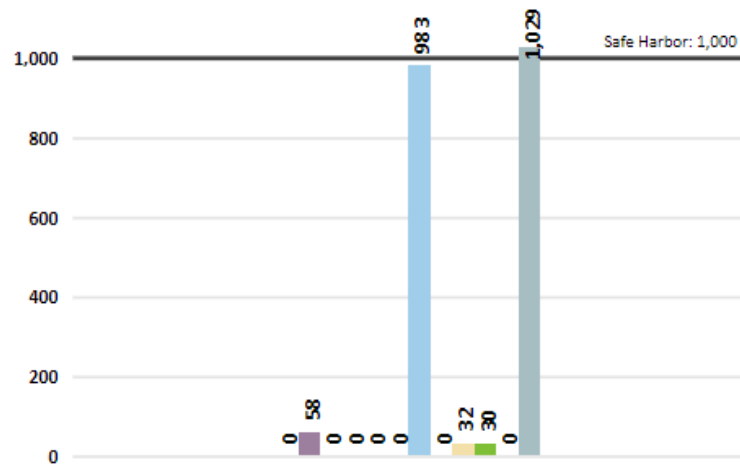
2,132

Total LEP Persons

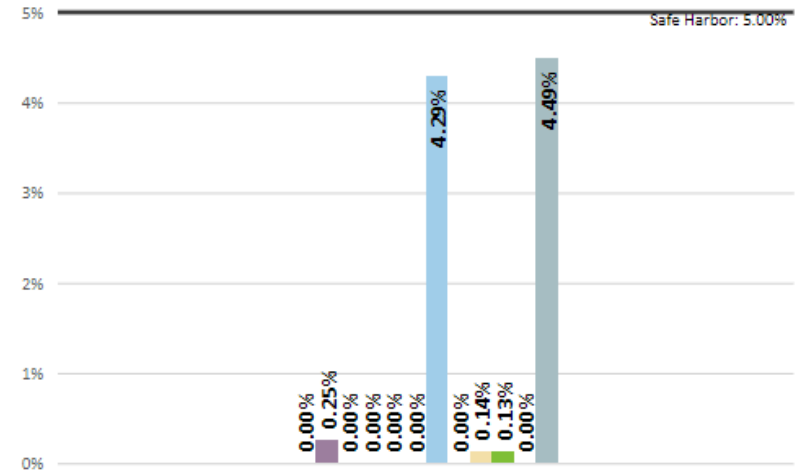
9.31%

Total LEP Percent

LEP Persons



LEP Percent

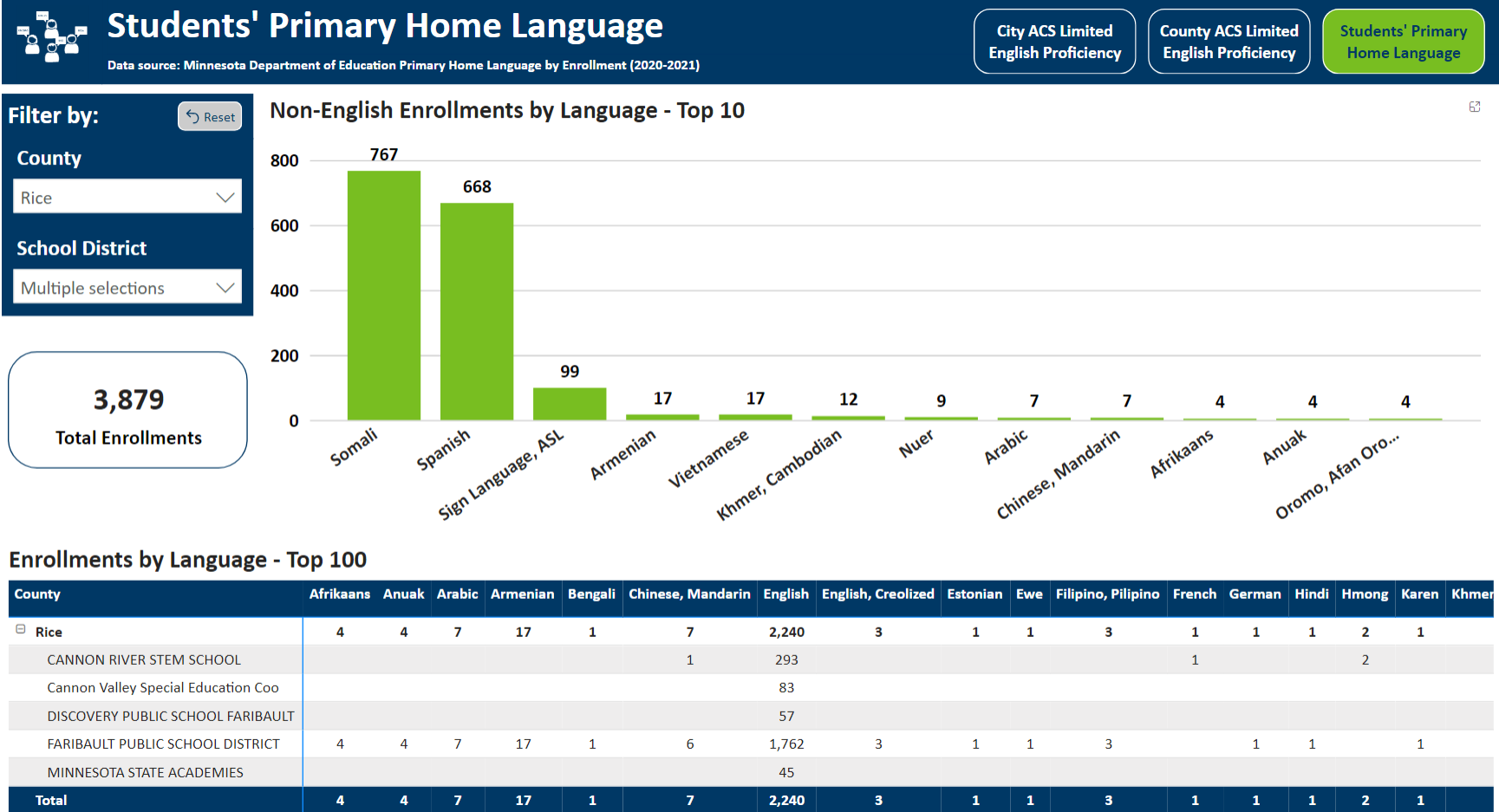


Languages



City	Total #	Total LEP #	Total LEP %	Arabic #	Arabic %	Chinese #	Chinese %	French/Haitian/Cajun #	French/Haitian/Cajun %	German/Other West Germanic #	German/Other West Germanic %	Korean #	Korean %	Russian/Polish/Other Slavic #	Russian/Polish/Other Slavic %	Spanish
Faribault	22,896	2,132	9.31%	0	0.00%	58	0.25%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	983
Total	22,896	2,132	9.31%	0	0.00%	58	0.25%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	983

Minnesota Department of Education: Primary Home Language for Students



Safe Harbor Provision (Written Documents)

U.S. DOT LEP Guidance provides a “safe harbor” to help ensure greater clarity regarding whether City of Faribault is meeting its obligation to provide written translations. These safe harbor provisions only apply to the translation of written documents and do not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language assistance services are needed and reasonable.

The following actions are considered strong evidence of compliance with the Department’s written-translation obligations:

- (a) Providing written translations of vital documents for **each eligible LEP language group that constitutes 5% or 1,000 people** of the population of individuals eligible to be served or likely to be affected or encountered. Translation of non-vital documents, if needed, can be provided orally; or
- (b) If there are fewer than 50 individuals in a language group that reaches the 5% trigger in (a), the vital written materials are not translated, but written notice of the right to receive free, competent oral interpretation of those vital written materials in the primary language of the LEP language group of is provided.

The above findings from the graphs on the preceding pages indicate the following LEP language groups meets the safe harbor threshold: Somali and Spanish. Therefore, City of Faribault will prioritize written document translation of vital information into those languages.

FACTOR #2: THE FREQUENCY WITH WHICH LEP INDIVIDUALS COME IN CONTACT WITH THE PROGRAM, ACTIVITY, OR SERVICE

City of Faribault should assess, as accurately as possible, the frequency with which they have or should have contact with LEP individuals from different language groups seeking assistance. If LEP individuals access a program or service on a regular, consistent basis, then that program or service provider has greater language access duties than a program or service whose contact with LEP individuals is unpredictable or infrequent.

However, even if there are infrequent or unpredictable interactions with LEP individuals, City of Faribault must be prepared to provide language assistance services to LEP individuals.

In applying this factor City of Faribault should also consider whether outreach to LEP individuals could increase the frequency of contact with LEP language groups and remain mindful of the data analysis conducted under Factor #1 to identify the proportion of LEP population present in the service area.

LEP persons may interact in several ways with City of Faribault, including but not limited to:

- Public meetings
- Community events
- Project-specific meetings, events, and discussions
- Online engagement
- Walk-in requests for information
- Phone communications
- Customer service interactions
- Surveys for information
- Requests for permits, licenses, or materials
- Real estate transactions (i.e., right of way)

In its most recent review conducted in June 2024, the City of Faribault noted it has had a moderate level of interactions with the following LEP language groups, in the past 5 years: Somali and Spanish.

The City of Faribault has a limited number of tracking tools related to language-specific data and during our review found there have been interactions that cannot be properly quantified, such as community events, customer service phone calls, etc. The City will begin working toward the implementation of a more effective tracking tool that provides more language-specific data.

City of Faribault will assess, as accurately as possible over the next 5-year period, the frequency with which LEP persons from different language groups come into contact with City of Faribault programs and activities.

FACTOR #3: THE NATURE AND IMPORTANCE OF THE PROGRAM, ACTIVITY, OR SERVICE TO PEOPLE'S LIVES

The more important the activity, information, service, or program, or the greater the possible consequences of the contact to the LEP individuals, the greater the need for language assistance services. City of Faribault must determine whether denial or delay of access to services or information could have serious implications for the LEP individual. Generally, programs providing information and services related to accessing benefits, opportunities, or rights are considered high importance.

The City of Faribault has determined the most important documents to translate whenever reasonably possible are as follows:

- Right- of-way interactions with LEP property owners
- Community surveys that impact Council decision- making
- Notices of neighborhood meetings
- Notices of public hearings
- Translation of videos that relate important information to the community

Vital Documents

As part of its analysis, a district, office, or program may determine that necessary language assistance measures include the translation of vital documents into the language of each LEP group that is frequently encountered, eligible to be served, or likely to be affected. Vital documents are paper or electronic written material containing information that is (1) critical for accessing programs, services, benefits, or activities, (2) directly and substantially related to public safety, or (3) required by law. Whether a document (or the information it solicits) is “vital” may depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is neither accurate nor timely.

Examples of vital documents in the U.S. DOT LEP Guidance include:

- Emergency transportation information
- Notices of public hearings regarding proposed transportation plans or projects
- Notices advising LEP individuals of free language assistance
- Applications or instructions on how to participate in a program or activity or receive benefits or services
- Consent forms

Sometimes a large document may include both vital and non-vital information. For these documents, vital information may include providing notice in the necessary non-English languages explaining where an LEP individual can obtain an interpretation or translation of the document.

Below is a LEP notice that can be placed on the cover of large documents in English, Spanish, Hmong, and Somali.

To request this document in another language, please send e-mail and attach document to accessibility@faribault.org.

Para pedir este documento en otro idioma, envíe un correo electrónico y adjunte el documento a accessibility@faribault.org.

Yog xav kom muab daim ntawv no sau ua lwm hom lwm, thov sau ntawv nrog daim ntawv tuaj rau ntawm accessibility@faribault.org.

Si aad u codsato dukumeentigan oo ku qoran luqad kale, fadlan e-mail u soo dir oo ku soo lifaaq dukumiintiga accessibility@faribault.org.

As noted under Factor #1, the following languages meets the safe harbor threshold for translating vital written materials: Somali and Spanish. The following document types

have been identified as vital and subject to translation in accordance with this analysis and federal guidance:

- **Public Notice of Rights Under Title VI**
- **Language assistance notice on public engagement invitations**
- **Language assistance notice on large public-facing documents**

FACTOR #4: THE RESOURCES AVAILABLE TO CITY OF FARIBAULT AND THE COST OF LANGUAGE ASSISTANCE

The resources available to City of Faribault and the costs of providing language assistance services may impact the steps taken to provide meaningful access to LEP individuals. Additionally, reasonable steps may cease to be reasonable where the costs imposed substantially exceed the benefits. City of Faribault will determine on a case-by-case basis whether language assistance costs outweigh the benefits.

The four-factor analysis necessarily implicates a spectrum of language assistance measures. For instance, written translations can range from translation of an entire document to translation of a short description of the document, and interpretation services may range from using telephone-based interpretation services to providing in-person interpretation at a public event. Language assistance measures should be based on what is necessary and reasonable after considering the four-factor analysis. City of Faribault will proactively identify how to provide language assistance services efficiently and cost-effectively while ensuring meaningful access to LEP individuals.

Language Services

There are two types of language services:

- *Translation* is the replacement of a word, phrase, or text in one language (source language) with an equivalent-meaning word, phrase, or text in another language (target language). This is written language assistance.
- *Interpretation* is the act of listening to a communication in one language (source language) and orally converting it to another language (target language) while retaining the same meaning. This is oral language assistance.

Currently, City of Faribault has the following language services available:

- **Language Line:** Provides telephone-based, on-demand access to language interpreters 24 hours a day, 7 days a week, year-round. The service assists staff in communicating effectively with LEP individuals.
- The City of Faribault website has a built-in Google translate tool that allows users to translate the content of our website into their preferred language.

- When requests provide ample time to do so, the City will use state contract vendors for translating requested documents, and will make every effort to provide interpreters.

XI. Notice of Rights

The City of Faribault's Notice of Rights will be posted on the public notice board in City Hall and on the City's website. It will be provided in English, Somali and Spanish.

Your Rights Against Discrimination under Title VI of the Civil Rights Act of 1964

The City of Faribault is committed to ensuring that no person is excluded from participation in, denied the benefits of, or otherwise subjected to discrimination on the basis of race, color, national origin, sex, age, disability, limited English proficiency or low-income status in any and all programs, activities, or services administered by the department in accordance with Title VI of the Civil Rights Act of 1964 and related nondiscrimination legal authorities.

In addition, the Minnesota Human Rights Act prohibits discrimination in the provision of public services on the basis of race, color, creed, religion, national origin, sex, marital status, disability, gender identity, sexual orientation, and status with regard to public assistance.

If you believe you have been aggrieved by an unlawful discriminatory practice, or wish to request more information about the department's obligations under Title VI, please contact us at the following address and telephone number:

Director of Engineering/Title VI Coordinator
City of Faribault
208 NW 1st Avenue
Faribault, MN 55021

A Title VI complaint may also be submitted to MnDOT online at <https://www.dot.state.mn.us/civilrights/nondiscrimination-complaint-form.html> or using the contact information:

Minnesota Department of Transportation
Office of Civil Rights
395 John Ireland Blvd, Mail Stop 170
St. Paul, MN 55155
Phone: (651)-366-3073
Fax: (651)-366-3129

Appendix A

The United States Department of Transportation (USDOT)

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

The _____ (herein referred to as the “Recipient”), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the **Federal Highway Administration (FHWA)**, is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

Modal Operating Administration may include additional Statutory/Regulatory Authorities here.

The preceding statutory and regulatory cites hereinafter are referred to as the “Acts” and “Regulations,” respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity,” for which the Recipient receives Federal financial assistance from DOT, including the FHWA.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Modal Operating Administration may include additional General Assurances in this section, or reference an addendum here.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted **FHWA Program**:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an “activity”) facilitated, or will be (with regard to a

“facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all **FHWA Programs** and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

“The _____, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”

3. The Recipient will insert the clauses of **Appendix A and E** of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of **Appendix B** of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in **Appendix C and Appendix D** of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance

under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

Modal Operating Administration may include additional Specific Assurances in this section.

By signing this ASSURANCE, _____ also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA. You must keep records, reports, and submit the material for review upon request to FHWA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

_____ gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FHWA. This ASSURANCE is binding on

_____, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in its programs. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

(Name of Recipient)

by _____
(Signature of Authorized Official)

DATED _____

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, **Federal Highway Administration (FHWA)**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21. *[Include Modal Operating Administration specific program requirements.]*
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin. *[Include Modal Operating Administration specific program requirements.]*
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the **FHWA** to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the **FHWA**, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the **FHWA** may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the **FHWA** may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the _____ will accept title to the lands and maintain the project constructed thereon in accordance with the Regulations for the Administration of **Federal Highway Administration (FHWA)**, and the policies and procedures prescribed by the **FHWA** of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the _____ all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto

_____ and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the _____, its successors and assigns.

The _____, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the _____ will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the _____ pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, _____ will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the _____ will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the _____ and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by _____ pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, _____ will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, _____ will there upon revert to and vest in and become the absolute property of _____ and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

Appendix B

Title VI Complaint Form

MnDOT has fillable PDF complaint forms available [here](#).

Please complete this form to the best of your ability. If you need translation or other assistance, contact _____.

Name _____
 Address _____ City _____ Zip _____
 Phone: Home _____ Work _____ Mobile _____
 Email: _____

Basis of Complaint (circle all that apply):

- ☐ Race ☐ Color ☐ Creed ☐ Gender Identity
☐ National Origin ☐ Sex ☐ Religion ☐ Public Assistance Status
☐ Age ☐ Disability ☐ Marital Status ☐ Other
☐ Retaliation ☐ Low-Income ☐ Sexual Orientation

Who discriminated against you?

Name _____
 Name of Organization _____
 Address _____ City _____ Zip _____
 Telephone _____

How were you discriminated against? (Attach additional pages if more space is needed)

[illegible]

Where did the discrimination occur?

When did the discrimination occur?

Were there any other witnesses to the discrimination?

Name	Organization/Title	Work Telephone	Home Telephone

How would you like to see this situation resolved?

Have you filed your complaint, grievance, or lawsuit with any other agency or court?

Who _____ When _____
 Status (pending, resolved, etc.) _____ Result, if known _____
 Complaint or case number, if known _____

If you have an attorney in this matter, please provide their contact information:

Name _____ Phone _____

Address _____ City _____ Zip _____

Privacy notice: City of Faribault is asking you to provide information in this complaint form which includes private and/or confidential information under the Minnesota Government Data Practices Act. This private/confidential information is being requested so that all allegations of discrimination can be investigated and addressed properly. You are not legally required to provide this information. However, if you do not provide sufficient information, your complaint may not be able to be adequately investigated. The information you provide will be used by City of Faribault, Minnesota Department of Transportation and Federal Highway Administration employees whose job assignments reasonably require access to the information. The following also have a legal right to access the information: exclusive representative for any MnDOT or City of Faribault employee who becomes the subject of investigation in connection with your complaint; the arbitrator if discipline imposed on any such employee is appealed to arbitration; the MN Attorney General's Office; the MN Legislative Auditor's Office; law enforcement agencies and prosecutorial authorities; persons/entities named pursuant to court order; persons/entities whom you authorize; and any other person or entity authorized by state or federal law.

Signed _____ Date _____



Council Work Session Memorandum

TO: Mayor and City Council
THROUGH: Jessica Kinser, City Administrator
FROM:
MEETING DATE: July 2, 2024
SUBJECT: Administrative Citation Ordinance

Discussion:

In 2023, the Charter Commission recommended and the Council adopted changes to the Charter to allow administrative offenses to be punished by civil penalty, with an ordinance to setting the policy/procedure to follow. This was approved with Ordinance 2023-18, which took effect in late November 2023. City Attorney Scott Riggs has provided a draft of an ordinance that creates administrative citations and describes the process for issuance and appeal. Staff has reviewed and found the draft to be acceptable to bring to the Council for future discussion and action.

Essentially this is another tool in the tool box of code enforcement. Presently, the City has to pursue criminal charges against someone for non-compliance, which is not going to be an effective way to proceed in most cases. The administrative citation process allows for a City official(s) to be named to issue a citation with a civil penalty for non-compliance. The individual receiving the citation has the ability to appeal, and the ordinance provides that the City can hire a hearing officer or the Council could serve as the hearing officer. This will be a decision the Council should discuss and determine how to proceed for the hearings, assuming adoption. Failure to pay will result in a line on a property or for the City to seek a judgment against a person.

It is important to note that this will not be a process that results in action on the part of an owner or allow the City to abate a nuisance as defined in the code of ordinances. Non-compliance does give the City other avenues in the criminal or civil arena to get to the end goal of compliance/abatement of a nuisance. As mentioned in the goal setting workshop, the ability to enforce this process is going to be enhanced through a proposal that eliminates the vacant CSO Supervisor position and transitions this position to an Inspector in Fire and Code Services. This job description and change will come before you in the near future. Also noted previously was the need for increased legal fees as a dedicated position

should result in additional work, as well as the costs for a hearing officer, assuming that is the how the Council wants to proceed.

This item directly relates to the strategic priority of Pride in Our Community.

Attachments:

1. 2023-18 Adding_Section_12.09_-
_Fines_and_civil_penalties._to_the_Faribault_City_Charter.pdf
2. DOCSOPEN-#959484-v3-
Faribault_Administrative_Citations_Ordinance

**CITY OF FARIBAULT
ORDINANCE No. 2023-18**

**ADDING SECTION 12.09 – FINES AND CIVIL PENALTIES. TO THE
FARIBAULT CITY CHARTER**

THE CITY OF FARIBAULT ORDAINS:

Section 1. The City Council of the City of Faribault, pursuant to the recommendation of the City of Faribault Charter Commission, has hereby determined that Chapter 12 of the City Charter be amended by adding the following section in its entirety:

Section 12.09. – Fines and civil penalties.

The Council may provide by ordinance that a violation of a City ordinance is either a misdemeanor or a petty misdemeanor, punishable in accordance with State law. The Council shall establish by ordinance a procedure for imposing a civil penalty known as an administrative offense as defined in City Code.

Section 2. This ordinance shall take effect ninety days after the date of its publication.

First Reading: August 8, 2023

Second Reading: August 22, 2023

Publication Date: August 26, 2023

Faribault City Council

DocuSigned by:

Kevin F. Voracek

AE5449CB049D4E7

Kevin F. Voracek, Mayor

ATTEST:

DocuSigned by:

Timothy C. Murray

6DB99B870021410...

Timothy C. Murray, City Administrator

**CITY OF FARIBAULT
ORDINANCE 2024-__**

**AMENDING CHAPTER 17 OF THE FARIBAULT CITY CODE OF
ORDINANCES TO REGULATE CITY CODE VIOLATIONS WITHIN THE
CITY**

THE CITY OF FARIBAULT ORDAINS that Chapter 17 of the City Code of Ordinances shall be amended as follows:

Section 1. Chapter 17 is amended to add the following:

ARTICLE V. ADMINISTRATIVE CITATIONS

Sec. 17-60. – Purpose.

The City Council seeks to offer an alternative method of enforcement for City Code violations rather than relying on the criminal court system. The formal criminal prosecution process does not provide an environment to adequately address the unique and sensitive issues that are involved in City Code violations, including, but not limited to, neighborhood concerns, livability issues, economic impact, physical limitations of the offenders and the stigma and unintended consequences of being charged with or convicted of a misdemeanor offense. In addition, the court system is a slow, overburdened and methodical process that is not conducive to dealing with the violations in a prompt and timely manner. Finally, the penalties afforded the criminal court system are restricted to fines or physical confinement, which are not always effective solutions to address City Code violations.

In order to provide more flexibility in addressing City Code violations on an individualized basis that will be more efficient and effective, the City Council finds that an alternative enforcement process is necessary. Therefore, to protect the health, safety and welfare of the citizens of the city, it is the City Council's intent to create a process for the use and imposition of administrative civil penalties that will provide the public and the city with a more effective alternative method for addressing City Code violations.

Sec. 17-61. – Authority.

The city is authorized to enact this administrative citation scheme pursuant to §1.19 of the City Code, §12.09 of the City Charter, and Minn. Stat. §§410.33, 412.221, 412.861, and 412.871.

- (a) **Administrative offense.** A violation of any provision of the City Code is an administrative offense that may be subject to an administrative citation and civil penalties. Each day a violation exists constitutes a separate offense.
- (b) **Exemption.** Alcohol and tobacco license violations, and motor vehicle violations are not subject to administrative citation under this ordinance.

Sec. 17-62. – Alternative methods of enforcement.

A violation of City Code is a penal offense pursuant to §1.19 of the City Code, however, this Section seeks to gain compliance with City Code as an alternative to any formal civil or criminal court action. The administrative civil penalties proceedings are in addition to any other legal or equitable remedy available to the city for City Code violations. The city may, in its discretion, choose not to issue an administrative citation and may initiate criminal charges instead.

Sec. 17-63. – Authority to issue compliance letters and administrative citations.

The City Administrator shall, in writing kept on file in City offices, designate appropriate City employees to issue compliance letters and administrative citations under this Section.

Sec. 17-64. – Compliance letter.

- (a) *Contents of compliance letter.* If a city employee or agent determines that a City Code violation has occurred, then, when appropriate, a compliance letter shall be issued. The compliance letter shall contain the following information:
 - (1) A description or address of the property on which the City Code violation has occurred;
 - (2) The nature of the violation, including a reference to the appropriate City Code section;
 - (3) A compliance deadline, providing a reasonable time for compliance based on the nature of the violation; and
 - (4) A statement that failure to correct the violation may result in the imposition of an administrative citation, including a civil penalty and stating the amount of the penalty as provided in the fee schedule.
- (b) *Service of compliance letter.* The compliance letter may be served on the offender by regular mail sent to the last known legal address, by personal

service or by posting a copy in a conspicuous place in or about the building or property affected by the letter.

- (c) *Reasonable extensions.* Following service of the compliance letter, the city shall attempt to work with the offender to resolve the violation, including, but not limited to, offering reasonable extensions for compliance.
- (d) *Exceptions to issuance of a compliance letter.* For violations of any of the following, the city shall not be required to issue a compliance letter and may proceed directly to issuance of an administrative citation as provided in §17-65 hereof:
 - (1) *Repeat offender.* If the same offender commits a subsequent violation within 12 months after a compliance letter has been issued for the same or similar offense. If the offense involves a property related offense, then the subsequent violation must occur at the same property within this 12-month period for this subsection to apply.
 - (2) *License violations.* For any license violation, including, but not limited to, not having a license.
 - (3) *Traffic or parking violations.* For traffic or parking violations under §15-90 of the City Code.
 - (4) *Animal violations.* For violations involving animals running at large and potentially dangerous or dangerous animals under Chapter 6 of the City Code.
 - (5) *Noise violations.* For any violation of §17-42 (nuisance noise).
 - (6) *Emergency situations.* When a condition exists that requires immediate action to protect the public health, safety and welfare, including any condition that represents a life-threatening condition.
 - (7) Disorderly conduct or other similar behavior that tends to disrupt, injure or annoy a reasonable person for which a compliance letter would be moot, as the conduct or behavior has terminated.
 - (8) *Tall Grass and Weeds.* For any violations of §31-6 (tall grass and weeds).

Sec. 17-65. – Administrative citation.

- (a) Upon the failure to correct the violation specified in the compliance letter within the time frame established in the compliance letter or any extension thereof granted by the city, or for any offense for which a compliance letter is not required, an administrative citation may be issued. The administrative citation shall be served by certified mail, by regular mail or by personal service and shall contain the following information:

- (1) A description or address of the property on which the City Code violation has occurred;
 - (2) Reference to the relevant portion of the City Code that is alleged to have been violated;
 - (3) The amount of the administrative civil penalty for the specific City Code violation, which shall be due and payable to the city within 30 days of the date the citation is mailed or personally served;
 - (4) A statement that the violation must be corrected or a subsequent administrative or a criminal citation may be issued;
 - (5) A statement that the violation and the amount of the administrative civil penalty may be contested to be heard before an independent hearing officer by notifying the City Clerk in writing within ten days after the citation was mailed or personally served; and
 - (6) A statement that failure to pay the administrative civil penalty may constitute a lien upon the property where the violation occurred or a personal obligation on the violator.
- (b) *Payment of penalty and correction of violation.* If the offender pays the administrative civil penalty and corrects the City Code violation, no further action will be taken for that same violation.
- (c) *Payment of penalty without correction of violation.* If the offender pays the administrative civil penalty but fails to correct the City Code violation, the city may issue a subsequent administrative citation, initiate criminal proceedings or initiate any other proceedings or remedies available in order to enforce correction of the City Code violation.
- (d) *No payment of penalty and no correction of violation.* If the offender fails to pay the administrative civil penalty and fails to correct the City Code violation, the city may do any of the following, or any combination thereof:
- (1) Issue a subsequent administrative citation, thereby commencing a new administrative penalties process;
 - (2) Find that the unpaid fee constitutes a lien upon the real property where the violation occurred, if the property or the improvements of the same were the subject of the violation;
 - (3) Find that the unpaid fee constitutes a personal obligation of the violator;
 - (4) Suspend or revoke any licenses or permits issued by the city related to the violation;
 - (5) Initiate criminal proceedings; and/or

- (6) Initiate other enforcement action authorized by law, including the cost of unpaid special charges as special assessments against the property benefitted to the extent allowed under Minn. Stat. § 429.101.

Sec. 17-66. – Contesting the administrative citation.

An offender receiving an administrative citation may contest the alleged City Code violation and the amount of the administrative civil penalty. In order to contest any part of the administrative citation, the offender must notify the City Clerk in writing within ten calendar days after the citation is mailed or personally served stating that the offender contests the alleged violation, the amount of the penalty or both, and pay a \$_____ filing fee. If the violation is ultimately not upheld by the hearing officer after the administrative citation hearing, then the city will refund the \$_____ filing fee to the offender.

Sec. 17-67. – Administrative citation hearing.

- (a) *Scheduling the hearing.* After receipt of the written notice to contest the citation as provided in § 17-66 hereof, the City Clerk shall schedule a hearing before the City Council or an independent hearing officer, which will be held within 30 days, unless otherwise agreed to in writing by the parties. The City Clerk shall notify the offender of the date, time, and location of the hearing.
- (b) *Independent hearing officer.* If the City Council appoints an independent hearing officer, who may be from the office of administrative law judges, the hearing officer shall preside over the administrative citation hearing.
- (c) *Conduct of the administrative citation hearing.* At the hearing, both parties may be represented by counsel, shall have the opportunity to present testimony, shall be able to call and question witnesses and introduce any exhibits; however, strict rules of evidence shall not apply. The hearing officer shall receive and give weight to the evidence, including hearsay evidence. The hearing shall be recorded and a full record of the proceedings shall be maintained by the city according to its data retention schedule.
- (d) *Authority of hearing officer.* The City Council or the independent hearing officer has the authority to do any of the following, or a combination thereof:
- (1) Make a finding that a violation has occurred;
 - (2) Reduce, stay, or waive a scheduled administrative civil penalty either unconditionally or upon compliance with reasonable conditions;
 - (3) Require compliance with the City Code within a specified timeframe;

- (4) Make a finding that no violation has occurred and dismiss the administrative citation.
- (e) *Decision and order.* The City Council or hearing officer may announce a decision at the conclusion of the hearing or may take the matter under advisement. The City Council or hearing officer shall issue a decision in the form of an order and shall serve a written copy of the order upon the parties no later than ten days after the hearing. Any administrative civil penalty that the independent hearing officer imposes must be paid to the city within the time frame established in the order. If no date is specified, it must be paid within 30 days of the hearing officer's order. If the City Council or hearing officer determines that no violation occurred, then the city may not proceed with criminal prosecution for the same act or conduct.
- (f) *Offender found in violation.* If the violation is upheld, then the offender must pay for the cost of the hearing, in an amount not to exceed \$1,000.
- (g) *Failure to appear.* Failure to appear at the hearing shall result in a default judgment against the party who fails to appear. If the offender fails to appear, the administrative citation shall be sustained and the fee for the cost of the hearing shall be imposed. If the city fails to appear, the administrative citation shall be dismissed.

Sec. 17-68. – Appeal.

The City Council's or hearing officer's decision is final and may only be appealed to the Minnesota Court of Appeals.

Sec. 17-69. – Schedule of administrative civil penalties.

- (a) The city shall adopt a fee schedule of administrative civil penalties for City Code violations by resolution. The maximum amount of an administrative civil penalty may not exceed the maximum fine authorized by state law for misdemeanor offenses or the maximum fine authorized by state law for an administrative process.
- (b) *Non-payment.* If a civil penalty is not paid within the time specified, it will constitute:
- (1) A lien on the real property upon which the violation occurred if the property or improvements on the property was the subject of the violation; or
 - (2) A personal obligation of the violator in all other situations.
- (c) *Lien.* A lien may be assessed against the property and collected in the same manner as taxes.

(d) *Personal obligation.* A personal obligation may be collected by appropriate legal means.

(e) *Late Fees/Charges.*

(1) The fine will increase by ten percent (10%) for each week, starting ten (10) days after the citation was issued, that no action is taken to correct the violation.

(2) If payment arrives more than one (1) week after it was due, an additional ten percent (10%) of the fine may be assessed, together with interest, for each month, or part thereof, that the fine remains unpaid after the due date.

(f) *License revocation or suspension.* Failure to pay a fine is grounds for suspending or revoking a license or permit related to the violation.

Section 2. Effective Date And Term. This ordinance shall take effect and be in force after its passage and publication, in accordance with Section 3.05 of the City Charter.

First Reading: _____, 2024

Second Reading: _____, 2024

Publication Date: _____, 2024

Faribault City Council

Kevin F. Voracek, Mayor

ATTEST:

Jessica Kinser, City Administrator



Council Work Session Memorandum

TO: Mayor and City Council
THROUGH: Jessica Kinser, City Administrator
FROM:
MEETING DATE: July 2, 2024
SUBJECT: Amendments to Chapter 16- Nuisance Ordinance

Discussion:

With the addition of the language presented about administrative citations to the City's code of ordinances, it is necessary to amend Chapter 16 of the code related to nuisances. Attached with the packet is the red-lined version from Kennedy & Graven. This review by the City's law firm resulted in a lot of clean-up language around the procedure for notification, service and follow-up. There are not issues from staff with the proposed changes, and it is recommended that the amendments to Chapter 16 move forward at the same time as the administrative citation language.

This item is related to the strategic priority of Pride in Our Community.

Attachments:

1. DOCSOPEN-#960755-v1-Faribault_Amendments_to_Nuisance_Ordinance

Chapter 16 NUISANCES¹

Sec. 16-1. Public nuisance defined.

Whoever by his 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;
- (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 or this chapter to be a public nuisance and for which no sentence is specifically provided.

(Ord. No. 87-02, § 2, 4-28-87)

Cross reference(s)—General penalty for violation of Code, § 1-20.

Sec. 16-2. Definitions.

For the purposes of this chapter, the following words, terms and phrases shall have the following meanings respectively ascribed to them [in this section]:

¹Editor's note(s)—Section 1 of Ord. No. 87-02, adopted April 28, 1987, repealed former Ch. 16, pertaining to nuisances, in its entirety and section 2 of the ordinance enacted a new Ch. 16 to read as set out therein. A section designated as § 16-2, Recovery of cost, was redesignated by the editor as § 16-11, in order to maintain the numerical sequence of the sections within the chapter.

Cross reference(s)—Abatement of nuisance in addition to imposition of penalty, § 1-21; habitual barking of dog a public nuisance, § 6-18; certain dog pens public nuisances, § 6-19; nuisances relative to uniform housing, § 7-65(10), (12); prohibited illumination a public nuisance, § 8-29; odors in garbage or refuse containers causing unpleasantness for other persons, or collecting a large number of insects, declared a public nuisance, § 11-10; unlawful deposit of garbage or refuse a public nuisance, § 11-11; permitting garbage or refuse to escape en route to disposal site a public nuisance, § 11-14; unlawful deposit of objectionable waste, § 17-11; offenses relating to noise, § 17-42 et seq.; disobedience to signs prohibiting peddlers, canvassers and transient merchants on premises declared a nuisance, § 19-4; when elm trees considered nuisance; when lawful to permit such nuisance; abatement, § 26-19 et seq.

State law reference(s)—Definition of the term "nuisance," M.S. § 561.01; public nuisances, M.S. § 609.74; power of city to regulate, prevent and to abate nuisances, M.S. §§ 145.22, 145.23, 429.021, subd. 1(8); power of city council in statutory city to define nuisances and provide for their prevention or abatement, M.S. § 412.221, subd. 23.

Harboring: Permitting a situation to exist either by establishing it or by failing to take steps promptly to terminate it.

Landlord: A person, including a corporation, who leases a residential unit to a tenant or who permits a tenant to use or occupy a residential unit owned or controlled by the person granting such permission, without regard to whether the tenant is charged rental for occupancy or use of the premises.

Neighbors: Any persons residing sufficiently near to a residential unit, as defined herein, to be disturbed by noisome activities thereon.

Residential unit: Place of residence, such as a house, apartment, mobile home, basement house, travel trailer, tent or other structure used for residential purposes, regardless of whether or not it is slept in during nighttime hours.

Tenant: Any person who, singly or with another, uses a residential unit with the consent of a landlord.

(Ord. No. 87-02, § 2, 4-28-87)

Sec. 16-3. Public nuisances affecting health.

The following are hereby declared to be nuisances affecting health where an unreasonable, unwarrantable or unlawful use by a person of his or her personal property or where a person's personal conduct causes another individual or the general public to be consequently damaged:

- (1) Exposed accumulation of decayed or unwholesome food or vegetable matter;
- (2) All diseased animals running at large;
- (3) All ponds or pools of stagnant water having noxious odors or determined to harbor disease or pose a danger of infection;
- (4) Carcasses of animals not buried or destroyed within twenty-four (24) hours after death;
- (5) Accumulations of manure, refuse or other debris;
- (6) Privy vaults and garbage cans which are not rodent-free or flytight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- (7) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
- (8) All noxious weeds and other rank growths of vegetation upon public or private property, except as otherwise permitted by chapter 31 of the City Code;
- (9) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities; and
- (10) Any offensive trade or business as defined by the zoning ordinance.

(Ord. No. 87-02, § 2, 4-28-87; Ord. No. 2009-21, § 1, 12-22-09)

Cross reference(s)—Nuisances relative to housing, § 7-65(10).

Sec. 16-4. Public nuisances affecting peace and safety.

The following are declared to be nuisances affecting public peace and safety where an unreasonable, unwarrantable or unlawful use by a person of his or her personal property or where a person's personal conduct causes another individual or the general public to be consequently damaged:

- (1) All snow and ice not removed from public sidewalks twenty-four (24) hours after the snow or other precipitation causing the condition has ceased to fall.
- (2) All trees, hedges, billboards, or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection.
- (3) All wires and limbs or trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles.
- (4) All unnecessary noises and annoying vibrations.
- (5) Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks or public grounds except under such conditions as are permitted by this Code or other applicable law.
- (6) Radio aerials or television antennae erected or maintained in a dangerous manner.
- (7) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk.
- (8) All hanging signs, awnings, and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance.
- (9) The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.
- (10) Any barbed wire or electric wire fencing which is not being used for agricultural purposes or livestock retention and appropriately marked with reflectorized devices or proper signage.
- (11) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.
- (12) Wastewater cast upon or permitted to flow upon streets or other public property.
- (13) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, or other material, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or safety hazards from such accumulation.
- (14) Any well, cistern, hole, or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located.
- (15) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials.

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(Supp. No. 73)

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- (16) The placing or throwing on any street, sidewalk or other public property, of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over such substance.
 - (17) The depositing of garbage or refuse on a public right-of-way or on adjacent private property.
 - (18) All other conditions or things which are likely to cause injury to the person or property of anyone.
 - (19) In residential areas, all heavy construction equipment, cement mixers, semi-trailers, agricultural equipment such as tractors, combines, wagons, inoperable vehicles, fork lifts, front-end loaders, and any other equipment not typically found or used in a particular area, block or neighborhood which is stored outside of a building or properly fenced area.

(Ord. No. 87-02, § 2, 4-28-87)

Cross reference(s)—Animals and fowl, Ch. 6; garbage and refuse, Ch. 11; health, Ch. 12; motor vehicles and traffic, Ch. 15; streets, sidewalks and public grounds, Ch. 25; trees, ch. 26; water and sewers, Ch. 28.

Sec. 16-5. Public nuisances affecting adjacent property.

The following are declared to be nuisances affecting adjacent property:

- (1) All unsightly accumulations of lumber, wood, scrap metal, cans, refuse, debris, tires, fencing materials, mechanical parts, rocks, gravel or any other items or materials which serve to diminish the value or quality of any adjacent property, regardless of whether said adjacent property is privately or publicly owned.
- (2) All trees, shrubs, weeds, fences or any part thereof, exterior storage, or any other materials or vegetation which extend into an adjacent property, including snow removed onto an adjacent property, to an extent where access is impeded, or the quality, usability, safety, or visibility of the adjacent property is negatively affected.
- (3) All excessive collections of water on an adjacent property caused by irregular grades, structures, hard-surfaced areas, or any other feature causing such excessive and frequent runoff to an adjacent property.

(Ord. No. 87-02, § 2, 4-28-87)

Cross reference(s)—Garbage and refuse, Ch. 11; trees, Ch. 26; exterior storage standards, zoning, subdiv. 3(g).

Sec. 16-6. Additional nuisances determined by city council.

The city council may interpret the categories of nuisances intended herein to include other specific nuisances, and may identify additional public nuisances which threaten or diminish the health, safety and welfare of the general public.

(Ord. No. 87-02, § 2, 4-28-87)

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(Supp. No. 73)

Sec. 16-7. ~~City Staff~~Enforcement.

- (a) No officer, agent or employee of the city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this section. No person who institutes or assists in the prosecution of a criminal proceeding under this section shall be liable in damages therefor, unless he acted with actual malice and without reasonable grounds for believing that the person accused or prosecuted was guilty of an unlawful act or omission.
- (b) It shall be the duty of the city administrator or ~~his designatetheir designee~~ to enforce the provisions of this section [chapter]. Authorized officers may make, or cause to be made, inspections to determine the condition of exterior premises of property and may, during the course of their inspection, take pictures on the premises. The owner, operator or occupant of the outdoor premises being inspected shall give the enforcement officers free access thereto at all reasonable times for the purpose of inspecting and taking pictures. It shall be unlawful for any person to deny an officer access to the premises for the purpose of inspecting them or taking pictures.

(Ord. No. 87-02, § 2, 4-28-87)

Cross reference(s)—Right of entry, § 1-18.

Sec. 16-8. ~~Abatement and control of nuisances~~ Notice required prior to prosecuting for creating, maintaining nuisance; method of service.

- (1) Procedures. The conditions declared in this section or any other provision of this code to be nuisances shall be subject to regulation enforced and applied in accordance with the procedures of this subsection.
- (2) Notice. When the existence of a nuisance is found on any property, the city administrator or their designee, shall issue a written notice to the owner, and, if different, the occupant, of the property to remove or abate the nuisance within a time specified in the notice, but not longer than ten (10) days. The notice shall include:
- (a) a description of the nuisance to be abated and the steps to be taken to abate the nuisance;
- (b) notification that unless the nuisance is abated or removed by the deadline listed in the notice, the city may enter onto the property and abate or remove the nuisance at the expense of the owner under the city code and Minnesota Statutes, section 145A.08, 429.101, or other applicable state or local law; and
- (c) notification that the owner and/or occupant of the property may appeal the notice to the city administrator or their designee. Any appeal must be requested before the deadline stated in the notice.
- (3) Service. The written notices shall be served upon the owner, and if different, the occupant, or of the property in one of the following ways:
- (a) by registered or certified mail;

(Supp. No. 73)

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(b) by an officer authorized to serve a warrant; or

(c) by a person aged 18 years or older who is not reasonably believed to be a party to any action arising from the notice.

(4) Posting Notice. If either the owner or the occupant of the property is unknown or absent and has no known representative upon whom notice can be served, the city or its agent, shall post the notice on the property.

(5) Appeal. The city administrator or their designee shall meet with the owner and/or occupant and the director of public safety, the building official or their designee within a reasonable time after receiving notice of an appeal. The city administrator or their designee shall consider the appeal and make a final decision within 48 hours following the meeting. The city administrator's decision shall be served on the owner and/or occupant by mail, email, or other means, and if the appeal is not granted, then the decision shall include a new date by which the owner and/or occupant must remove or abate the nuisance. An owner or occupant may appeal from the city administrator's decision pursuant to available remedies under state law.

Commented [LK1]: Please confirm who the appropriate staff should be at the appeal.

(6) Abatement. If the owner or occupant fails or neglects to remove or abate the nuisance described in the notice provided under subdivision 2 within the period of time specified in the notice and does not request an appeal, then the city, or a designated agent of the city, shall remove or abate the nuisance described in the notice and assess the cost to the owner pursuant to Section 16-11.

(7) Interference with Access and Abatement Prohibited. Pursuant to Minnesota Statutes, Section 145A.04, subd. 10, it is a misdemeanor to deliberately hinder a city staff member or their agent from entering a property where contagion, infection, filth, or other source or cause of preventable disease exists or is reasonably suspected to exist, or otherwise to interfere with the performance of the duties of the city related to the inspection and abatement of a nuisance.

~~(a) Written notice to abate.~~ Before any person is prosecuted for creating, harboring or maintaining a nuisance in the city, the authorized officer shall give such person a ten (10) days' written notice ordering such person to abate such nuisance and to comply with applicable city regulations.

~~(b) Serving notice.~~ Such notice described in subsection (a) of this section shall be served in the same manner as a summons in a civil action, and the original of such notice and the affidavit or certificate of service thereof shall be filed with the city administrator within eight (8) days after service of such notice has been made.

~~(c) Description of property.~~ Such notice shall describe the property involved sufficiently to identify it, shall describe the violation which exists and the remedial actions required.

~~(d) Compliance.~~ If, upon receiving such notice, an individual is unable to abate a nuisance within the allotted ten-day period, he or she may establish the fact to the satisfaction of the city administrator or his designate. The individual may receive a reasonable extension to accomplish compliance by abating the nuisance.

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(e) ~~Reoccurrence of nuisance; notice to abate.~~ Where a nuisance has occurred and has either been abated by the violator or by the city, and where such nuisance reoccurs at any time within three (3) years of the last violation, a notice to abate shall provide no period of compliance and require immediate abatement. Otherwise, the responsible party is in violation of this chapter and subject to all penalties thereunder and abatement of the nuisance by the city.

(Ord. No. 87-02, § 2, 4-28-87)

State law reference(s)—Permitting public nuisance or real property, M.S. § 609.745.

Sec. 16-9. Penalty.

If the notice described above in section 16-8 is not complied with by the responsible person within the time prescribed, such person is in violation of this section [chapter] and is guilty of a misdemeanor and may be punished by (i) an administrative civil penalty pursuant to Chapter 17, Article V, (ii) a fine not to exceed five hundred dollars (\$500.00), or (iii) imprisonment for not more than ninety (90) days, or ~~both of the above~~, plus the costs of prosecution ~~in either case, and/or additional costs as listed under Chapter 17.~~

(Ord. No. 87-02, § 2, 4-28-87)

Sec. 16-10. **Emergency** Abatement.

If the city administrator or their designee determines that a public nuisance exists and that the public health, safety, or welfare may be in immediate danger, the city may implement emergency abatement procedures to remove or abate the nuisance. When emergency abatement is authorized, the city will post a notice at the property and attempt to notify the owner and any occupants of the property. Following emergency abatement, the City will mail notice of the action taken to the property owner and assess costs pursuant to Section 16-11.

~~If the notice described is not complied with within the time specified, the enforcing officer shall report that fact forthwith to the city administrator. Thereafter the city may, after notice to the owner or occupant and an opportunity to be heard, choose to abate the nuisance. The notice shall be served in the same manner as notice by the enforcing officer and shall be given at least ten (10) days before the date stated in the notice when the council will consider the matter. If notice is given by posting, at least thirty (30) days shall elapse between the day of posting and the hearing.~~

(Ord. No. 87-02, § 2, 4-28-87)

Sec. 16-11. Recovery of costs.

- (a) *Personal liability.* The owner of premises on which a nuisance has been abated by the city, or a person who has caused a public nuisance on property not owned by that person, shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the city administrator or other official designated by the council shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the city administrator.

Commented [KLJ2]: I could not find this in other City's nuisance statutes. Concerns that this could raise due process issues. For repeat nuisances, the City can charge a repeat nuisance fee, which they consider in Chapter 14, Article IV of their code.

-
- (b) *Assessment.* After notice and hearing as provided in Minn. Stat. § 429.061, as it may be amended from time to time, ~~if~~ the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the city administrator or ~~his designatetheir designee~~ shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minnesota Statutes, section 429.101 against each separate lot or parcel to which the charges are attributable.

The council may then spread the charges against such property under that statute and other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding ten (10), as the council may determine in each case.

(Ord. No. 87-02, § 2, 4-28-87)

Note(s)—See the editor's footnote to the chapter title.

Cross reference(s)—Dutch elm disease control, § 26-16 et seq.



Council Work Session Memorandum

TO: Mayor and City Council
THROUGH: Jessica Kinser, City Administrator
FROM:
MEETING DATE: July 2, 2024
SUBJECT: 2025 Budget- Review New Personnel
Requests/Changes

Discussion:

As part of the 2025 budget process, department heads have come forward with requests for new personnel or changes with existing personnel. These requests along with are detailed in the attached presentation. Staff will review these requests with City Council on July 2nd, with the goal of getting direction on the positions to be included or eliminated in the 2025 budget.

Attachments:

1. 2025 New Personnel Requests

2025 New Personnel Requests

BUDGET WORKSHOP- JULY 2, 2024



2024 Mid-Year Position Changes



Economic Development Coordinator

- Fund 240
- Likely start date of August 1st
- 2024 financial impact will be part of 2025 tax levy
- *Thriving Economic Development*

Nuisance/Property Maintenance Inspector

- Replaces CSO Supervisor
- Cost savings by replacing I10 to I3 starting wage
- Based in Fire/Code Services
- Position on future Council agenda for approval
- Likely start date of October 1st
- *Pride in Our Community*



2025 New Personnel Requests

- Assumptions Used
 - Start at Step 6
 - Budget highest level family health insurance, dental, HSA
 - Projecting full year of employment (unless stated otherwise)
- Not all requests made the cut
- Departments with Requests included
 - Parks and Recreation
 - Fire and Code Services
 - Engineering
 - Community and Economic Development
- Highlighted items directly impact the tax levy

2025 New Personnel Requests

■ Parks & Recreation

- Recreation Coordinator – Viaduct Park
 - Wages & Benefits = \$78,501 (reduced based on May/June start)
- Seasonal Personnel – Viaduct Park
 - Wages & Benefits = \$50,727 (reduced based on May/June start)
- Light Equipment Operator – Viaduct Park
 - Current part-time position transition to full-time
 - Wages & Benefits = \$30,015 (reduced based on May/June start)
- Seasonal Staff - \$1/hour increase to \$14.25/hour base pay
 - ~\$50,000 increase across multiple functions in the GF
- *Access to Nature, Leisure, Arts/Pride in Our Community*

2025 New Personnel Requests

- Fire and Code Services

- Change use of Public Safety Aid for Current FF position

- Budgeted at 0% for 2025, 100% for 2026
 - Propose funding at 50% for 2025, 100% for 2026
 - Wages & Benefits = \$50,431
 - *Public Safety*

- Change Admin Asst 1 to Permit Technician

- Analysis of job duties is Permit Technician
 - Wages & Benefits = \$12,334
 - Difference between budgeted Admin Asst 1 position and Permit Tech
 - *Thriving Economic Development*

2025 New Personnel Requests

■ Engineering

■ Environmental & Water Resources Coordinator

- Wages & Benefits: \$133,046
 - Stormwater: \$81,452 (60%)
 - Savings of \$25,312 due to elimination of temp position, contract
 - Net cost to Stormwater: \$56,140
 - Water: \$32,093 (25%)
 - General Fund- Engineering: \$19,501 (15%)
 - Net increase to City budget: \$107,734
- *Pride in Our Community, Access to Nature, Leisure, Arts*

■ Community & Economic Development

■ HRA Executive Director

■ HRA Board has not approved position

- Wages & Benefits = \$180,978
 - HRA/Public Housing/Robinwood: \$162,880 (90%)
 - Community & Economic Development: \$18,098 (10%)
- *Thriving Economic Development, Pride in Our Community, A Vibrant Downtown*

Financial Impact By Fund

- ❑ General Fund - \$291,509
 - ❑ *Parks & Rec* - \$209,243
 - ❑ *Fire & Code* - \$62,765
 - ❑ *Engineering* - \$19,501
- ❑ Community & Economic Development - \$18,098
- ❑ HRA/Robinwood/Public Housing - \$162,880
- ❑ Stormwater - \$56,140
- ❑ Water - \$32,093

Overall Tax Impact: \$309,607

Next Steps

- ☐ Decide what positions/adjustments move forward
- ☐ Make necessary changes in employee master spreadsheet
- ☐ July 15th-24th : General Fund budget meetings with departments
- ☐ July 30th: General Fund presentation/discussion