

**A G E N D A**  
**CITY COUNCIL MEETING**  
**MONDAY, JUNE 20, 2022**  
**5:30 P.M.**  
**COUNCIL CHAMBERS**

Call to Order.

Pledge of Allegiance.

Roll Call.

- (mot) 1. Adoption of Agenda.
- (mot) 2. Approving minutes from June 6, 2022
- 3. Recognitions and Awards.
  - Senator Gene Dornink
  - Juneteenth Proclamation
- (mot) 4. \*Consent Agenda

Licenses:

Mobile Food: Infuzn Foods, LLC, Pine Island  
Temporary Food: La Senda Antigua, 100 4<sup>th</sup> Avenue SE

Claims:

- a. Pre-list of bills
- b. Investment and Financial Reports.

**BID OPENING AND AWARD:**

- 5. Receiving bids for the Oakland Avenue West Trail.
  - a. Awarding bid.

**PETITIONS AND REQUESTS:**

- (mot) 6. Approving the 2021 audit report.
- 7. Reviewing modifications to a tobacco ordinance.
  - (mot) a. For preparation of the ordinance.
  - (ord) b. For adoption and publication of the ordinance.
- (res) 8. Setting the mileage reimbursement rate as of July 1, 2022.
- (res) 9. Accepting donations to the City of Austin.
- (res) 10. Approving an ICM agreement with NuTek Biosciences. (*backup to follow*)
- (res) 11a. Authorizing the creation of a joint airport zoning board.
- (res) 11b. Authorizing the municipality to zone areas around its airport.

12. Granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at the following locations:

(mot) a. 1802 3<sup>rd</sup> Street NE, Andree Property.  
(mot) b. 701 10<sup>th</sup> Avenue SE, Hoffman/Gross Property.

**CITIZENS ADDRESSING THE COUNCIL**

**HONORARY COUNCIL MEMBER COMMENTS**

**REPORTS AND RECOMMENDATIONS:**

City Administrator

City Council

(mot) Adjourn to **Tuesday, July 5, 2022** at 5:30 pm in the Council Chambers.

\*All items listed with an asterisk (\*) are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a council member or citizen so requests in which event the item will be removed from the general order of business and considered in its normal sequence on the agenda.

M I N U T E S  
CITY COUNCIL MEETING  
June 6, 2022  
5:30 PM  
Council Chambers

MEMBERS PRESENT: Mayor King. Council Members Paul Fischer, Rebecca Waller, Jason Baskin, Michael Postma, Joyce Poshusta and Council Member-at-Large Jeff Austin

MEMBERS ABSENT:

STAFF PRESENT: City Administrator Craig Clark, Director of Administrative Services Tom Dankert, Police Chief David McKichan, Public Works Director Steven Lang, Fire Chief Jim McCoy, Planning and Zoning Administrator Holly Wallace, Park and Rec Director Dave Merrill, City Attorney Craig Byram, Library Director Julie Clinefelter

APPEARING IN PERSON: Kris Fadness, Brian Davis, Terry Schmidt, Brian Preble, Tim Sorgine, Austin Daily Herald

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

Moved by Council Member Fischer, seconded by Council Member Waller, approving the agenda. Carried.

Moved by Council Member Baskin, seconded by Council Member Fischer, approving Council minutes from May 16, 2022. Carried.

#### AWARDS AND RECOGNITIONS

Mayor King welcomed Steven Juenger as the newest honorary council member.

Mayor King read a proclamation in honor of Kris Fadness. Mr. Fadness thanked the Council for the honor.

#### CONSENT AGENDA

Moved by Council Member Fischer, seconded by Council Member Poshusta, approving the consent agenda as follows:

Licenses:

Cab Driver: Amy Clinton, 1200 2<sup>nd</sup> Drive NE  
Food: Khinni Asian Market, LLC, 430 10<sup>th</sup> Street NE, Suite 2  
Food: Vietnamese Top Noodle, 501 1<sup>st</sup> Street NW

Mobile business: Asian Hut, PO Box 13, Storden  
Mobile business: Cookie Dough Bliss Twin Cities, 4122 Shelly Court, New Market  
Mobile business: Nels Diner, LLC, Albert Lea  
Mobile business: Tasty Fam, LLC, 1009 1<sup>st</sup> Avenue NW  
Mobile business: The Cafeteria, LLC, 105 9<sup>th</sup> Street NW  
Temporary 3.2 Beer: Austin Area Chamber of Commerce at the Plager Building on July 19, 2022  
Temporary Liquor: Gravity Storm Brewery at Bandshell Park on August 27, 2022  
Temporary Liquor: Gravity Storm Brewery at Bandshell Park on July 3-4, 2022  
Temporary Liquor: VFW Post 1216 at Bandshell Park on July 3-4, 2022

Claims:

- a. Pre-list of bills
- b. Financial and Credit Card Reports.

Event Applications:

Pride Fest on June 12, 2022

Carried.

## PUBLIC HEARINGS

A public hearing was held for the review of a five year tax abatement request from Bigelow & Lennon Construction. City Administrator Craig Clark stated Bigelow & Lennon would like to build a single-family home valued at approximately \$350,000 on 14<sup>th</sup> Avenue NE. He stated the application is in conformance with the City's tax abatement policy.

There were no public comments.

Moved by Council Member Baskin, seconded by Council Member Postma, approving a five year tax abatement request from Bigelow & Lennon Construction. Carried 6-0.

A public hearing was held for the review of a five year tax abatement request from the Austin Housing and Redevelopment Authority for a single family home valued at approximately \$325,000 on 24<sup>th</sup> Avenue NW. City Administrator Craig Clark stated the application is in conformance with the City's tax abatement policy.

There were no public comments.

Moved by Council Member-at-Large Austin, seconded by Council Member Poshusta, approving a five year tax abatement request from the Austin Housing and Redevelopment Authority. Carried 6-0.

## PETITIONS AND REQUESTS

City Attorney Craig Byram stated the City has received a resignation for first ward council member Oballa Oballa due to him moving from his ward. He stated the City will accept applications for appointment through June 20, 2022 and the position will be appointed by July 5, 2022.

Mayor King stated the Council will choose the new Council Member. He noted that there were conflicts with the proposed date and suggested it be moved to July 7<sup>th</sup> for the interviews.

Moved by Council Member Poshusta, seconded by Council Member Waller, adopting a resolution accepting Oballa Oballa's resignation and declaring a First Ward vacancy. Carried 6-0.

City Administrator Craig Clark stated the Austin Artworks Festival would like the City to participate in the cost for a permanent electrical panel for the festival. The total cost of \$9,000 and the Artworks Festival would contribute \$3,000 and is asking the City to contribute \$1,500. Mr. Clark stated the City has \$67,000 in contingency funds for 2022.

Moved by Council Member Fischer, seconded by Council Member Waller, authorizing \$1,500 from 2022 contingency for an electrical pedestal at the Austin Artworks Festival. Carried.

Director of Administrative Services Tom Dankert requested the Council approve a budget adjustment for affordable housing purposes. He stated there is money in an unused tax increment financing district that is eligible to be used for housing purposes. He noted the transfer of up to \$548,465 will be made once the district is closed out.

Moved by Council Member-at-Large Austin, seconded by Council Member Baskin, adopting a resolution approving budget adjustment number 3 – affordable housing funding. Carried 6-0.

Director of Administrative Services Tom Dankert requested the Council approve a budget adjustment in the amount of \$1,421,250 for an EDA grant match for Creekside business park infrastructure.

Moved by Council Member Fischer, seconded by Council Member Waller, adopting a resolution approving budget adjustment number 4 – EDA grant match. Carried 6-0.

Director of Administrative Services Tom Dankert requested the Council approve a senior deferral application for Marian Clennon for a 2022 street project. The assessment will be deferred until the property loses eligibility or is sold.

Moved by Council Member-at-Large Austin, seconded by Council Member Postma, adopting a resolution approving a senior deferral application. Carried 6-0.

Director of Administrative Services Tom Dankert stated the City Administrator would like a wireless microphone at the podium as a change order to the audio visual project in the council chambers. The wiring under the podium would also need to be moved resulting in a change order in the amount of \$2,926.88.

Moved by Council Member Postma, seconded by Council Member Fischer, adopting a resolution approving change order #1 for the Council Chambers audio/visual project. Carried 5-1 with Council Member-at-Large Austin voting nay.

Public Works Director Steven Lang stated as part of the FEMA requirements for the North Main Flood Control project, the Council must adopt the Operations, Maintenance, Repair, Replacement & Rehabilitation manual. He stated the full document is over 500 pages and specifies maintenance for the wall.

Moved by Council Member Baskin, seconded by Council Member Postma, adopting a resolution adopting the Operations, Maintenance, Repair, Replacements & Rehabilitation Manual for the North Main Flood Control Project. Carried 6-0.

Planning and Zoning Administrator Holly Wallace reviewed an ordinance for conditional and interim use permits. She stated a new section needs to be added for the interim use permits and will be beneficial to the community.

Moved by Council Member Fischer, seconded by Council Member Poshusta, for preparation of the ordinance. Carried.

Moved by Council Member Fischer, seconded by Council Member Postma, adopting a resolution for adoption of the ordinance. Carried 6-0.

Moved by Council Member Poshusta, seconded by Council Member Fischer, adopting a resolution for summary publication of the ordinance. Carried 6-0.

Moved by Council Member Fischer, seconded by Council Member Baskin, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 503 8<sup>th</sup> Avenue SE, Wakefield Property. Carried.

Moved by Council Member Fischer, seconded by Council Member Waller, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 808 10<sup>th</sup> Avenue SE, Ernst Property. Carried.

Moved by Council Member Postma, seconded by Council Member Waller, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 1006 11<sup>th</sup> Avenue SW, Myint Property. Carried.

Moved by Council Member Fischer, seconded by Council Member Baskin, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 400 16<sup>th</sup> Avenue SW, Vandervoort Property. Carried.

Moved by Council Member Poshusta, seconded by Council Member Waller, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 810 10<sup>th</sup> Street NE, Heigel Property. Carried.

Moved by Council Member Waller, seconded by Council Member Postma, granting the Planning and Zoning Department the power to contract for the removal of junk and/or illegally stored vehicles at 904 5<sup>th</sup> Avenue NW, El Patron Property. Carried.

#### CITIZENS ADDRESSING THE COUNCIL

Terry Schmidt, 1200 20<sup>th</sup> Street NE, stated he has parking concerns in front of his business on 10<sup>th</sup> Drive SE. He would like to be able to park on the side street and not directly on 10<sup>th</sup> Drive.

Mayor King dated the engineering office is looking at the intersection.

Brian Davis, 206 4<sup>th</sup> Street, Lyle, stated he would like the ordinance adjusted for sidewalk seating.

Council Member Postma noted that staff studied the possibility of parklets and it was not feasible with Minnesota laws.

Brian Preble, Albert Lea, also advocated for the sidewalk café seating.

Tim Sorgine stated he also supports the parking modification on 10<sup>th</sup> Drive SE.

#### HONORARY COUNCIL MEMBER COMMENTS

Honorary Council Member Steven Juenger stated he enjoyed his first meeting.

#### REPORTS

City Administrator Craig Clark stated the League of Minnesota Cities conference is June 22-24<sup>th</sup>.

Park and Recreation Director David Merrill stated there is emerald ash borer in town. He stated any remediation will be done in the fall.

Public Works Director Steven Lang stated the Waste Water Treatment Plant project has been sent to the bidders and there was a walk through the previous week.

Council Member Baskin welcomed Dave Merrill.

Council Member-at-Large Austin stated the Human Rights Commission Pride Event will be held on June 12<sup>th</sup>.

Council Member Postma stated 4<sup>th</sup> Avenue Fest will be on Wednesday, June 7<sup>th</sup>. He also encouraged lawmakers to come back for the special bonding session. He suggested bringing up the chicken issue again on a future work session.

Council Member Poshusta stated she would like to have the chicken discussion again. She also congratulated the AHS class of 2022.

Moved by Council Member-at-Large Austin, seconded by Council Member Postma, adjourning the meeting to June 20, 2022. Carried.

Adjourned: 6:15 p.m.

Approved: June 20, 2022

Mayor: \_\_\_\_\_

City Recorder: \_\_\_\_\_

City of Austin  
500 Fourth Avenue N.E.  
Austin, Minnesota 55912-3773



Steven J. Lang, P.E.  
City Engr./Public Works Dir.  
507-437-9949  
Fax 507-437-7101  
slang@ci.austin.mn.us

## Memorandum

**To:** Mayor & Council  
**From:** Mitch Wenum, PE  
**Date:** June 13, 2022  
**Subject:** Re-Bid – Oakland Avenue W Trail  
CP 22303

At the May 16<sup>th</sup> council meeting, the City Council rejected the bids for the Oakland Ave W trail, due to the bid prices greatly exceeding the \$150,000 budgeted for the project.

After the meeting, we looked into ways to reduce costs on the project. In the original bid, the asphalt milling and paving were the highest cost items. Due to the small size and tedious nature of the project, we felt that the asphalt milling and paving could be completed by city crews at a much lower cost than a contractor. By removing the asphalt items, we were also able to reach bidders that do not do asphalt paving. We removed those items and solicited two contractors to re-bid the project.

The re-bid results are summarized below.

Contractor	Total Bid Amount
Hansen Hauling & Excavating	\$137,170.00
Ulland Brothers, Inc.	\$215,000.00
Engineer's Estimate	\$147,075.00

Total cost for the project

Item	Amount
Hansen Hauling & Excavating	\$137,170.00
Asphalt Milling & Paving by City Crews	\$28,700.00
<b>Total Project Cost</b>	<b>\$165,870.00</b>

We have \$150,000 budgeted for the project, with \$100,000 coming from a Hormel Foundation grant and \$50,000 coming from the Capital Improvement Fund. The additional \$15,870 would come from the Capital Improvement Fund balance.

We recommend that the City Council award the bid to Hansen Hauling & Excavating. If you have any questions, please contact me.

Fund 49 – Capital Improvement Fund	\$ 65,870.00
Hormel Foundation Grant	\$100,000.00

## RESOLUTION NO.

# **AWARDING BID FOR OAKLAND AVENUE WEST TRAIL**

**WHEREAS**, pursuant to an advertisement for bids for the following local improvements:

## Oakland Avenue West Trail

Bids were received, opened and tabulated according to law and the following bids were received complying with the advertisement:

<u>Contractor</u>	<u>Bid</u>
Hansen Hauling & Excavating, Inc.	\$137,170.00
Ulland Brothers, Inc.	\$215,000.00
Engineer's Estimate	\$147,075.00

**AND, WHEREAS**, it appears Hansen Hauling & Excavating, Inc. is the lowest responsible bidder.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Austin, Minnesota that the base bid of the Hansen Hauling & Excavating, Inc. is hereby accepted and the Mayor and City Recorder are hereby authorized and directed to enter into the standard city contract with Hansen Hauling & Excavating, Inc. in the name of the City of Austin for the following:

## Oakland Avenue West Trail

Passed by a vote of yeas and nays this 20th day of June, 2022

ATTEST:

**APPROVED:**

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## City Recorder

City of Austin  
500 Fourth Avenue N.E.  
Austin, Minnesota 55912-3773



Phone: 507-437-9940

[www.ci.austin.mn.us](http://www.ci.austin.mn.us)

TO: Mayor and City Council  
 FROM: Tom Dankert *TD*  
 Director of Administrative Services  
 DATE: May 18, 2022  
 RE: 2021 Audit Report  
 U:\Word\2022\Miscellaneous\12-31-21 Audit Report - work session.doc

Enclosed you will find the electronic audit report for the City of Austin for the year ended December 31, 2021. We have also included the Executive Audit Summary (EAS) and the Other Audit Reports. We will be discussing these items at the work session of June 6. Craig Popenhagen from CliftonLarsonAllen, LLP will be here to present the audit report.

The City of Austin ended up with Unassigned Undesignated Fund Balance at 60% of expenditures in the General Fund. This is significantly above our informal policy of 42-48% of expenditures in fund balance, but was a reduction from the 74% fund balance level the year before. Items of note:

1. 2021 General Fund expenditures were at 93%. Unspent capital dollars, Nu-Tek financial commitments, and other budget expenditures remain in fund balance.
2. Revenues for 2021 came in at 112%. The receipt of the \$1,378,759 American Rescue Plan (ARPA) unbudgeted revenue was the primary reason for the influx of revenue above budget (8% above budget).
3. We did restate fund balance from the prior year for two items:
  - a. In the past CLA has had us calculate the MSAS State Aid Receivable one way, but with a new principal in-charge, they asked us to calculate it differently.
  - b. The City's health insurance contribution from 2019 to 2021 that we discovered while the auditors were here had to have a portion booked back into the beginning fund balance as it related to the 2019 and 2020 years.

Additionally, we had a "passed adjustment" this year, meaning it was small enough that it didn't require us to change the financial statements, but it will be something we incorporate into the next year's audit. The Government-Wide financial statements have it recorded; however, we did not allocate a portion out to the Internal Service Funds (as had been approved by prior auditors). We will incorporate this change into the 2022 financial statements as per the auditor request.

Once again, a big THANKS goes out to the department heads and employees of the City of Austin. Requiring sign-off's on purchase orders, time cards, credit card transactions, and the checks and balances we have in place to ensure all cash and wires in and out are properly authorized and accounted for is a monumental task for which all should be proud of passing another audit.

Special thanks to Kim Hansen, Melissa Wilson, and Don Tomlinson for their dedicated efforts again this year. Our Finance Department handles hundreds of thousands of lines of data on an annual basis that needs to get into the LOGIS system so we can get reports back out. Passing an audit does not happen without everybody's efforts.

If you have any questions regarding the audit report, please do not hesitate to give me a call at 437-9959.

CITY OF AUSTIN  
AUSTIN, MINNESOTA

**EXECUTIVE AUDIT SUMMARY (EAS)**

**DECEMBER 31, 2021**



WEALTH ADVISORY | OUTSOURCING  
AUDIT, TAX, AND CONSULTING

[CLAconnect.com](http://CLAconnect.com)



CliftonLarsonAllen LLP  
CLAConnect.com

Members of the City Council  
City of Austin  
Austin, Minnesota

This Executive Audit Summary presents information which we believe is important to you as members of the city council. We encourage you to review the sections of this report, the audited financial statements, and the auditors' reports.

We would be pleased to furnish additional information with respect to these suggestions and discuss this memorandum with you at your convenience. We wish to express our appreciation to the City for the courtesies, cooperation, and assistance extended to us during the course of our work.

**CliftonLarsonAllen LLP**

A handwritten signature in black ink that reads "Craig Popenhagen".

Craig Popenhagen, CPA  
Principal



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**CITY OF AUSTIN  
AUSTIN, MINNESOTA  
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DECEMBER 31, 2021**

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**EXECUTIVE AUDIT SUMMARY (EAS) FOR  
CITY OF AUSTIN  
YEAR ENDED DECEMBER 31, 2021**

We prepared this Executive Audit Summary in conjunction with our audit of the City's financial records for the year ended December 31, 2021.

**Audit Opinion**

The financial statements are fairly stated. We issued what is known as a "clean" audit report (see page 1 in the Annual Comprehensive Financial Report).

**Internal Control Over Financial Reporting**

One internal control finding was noted regarding a restatement of prior year financial statements.

**Single Audit Compliance**

No single audit findings were noted.

**Minnesota Legal Compliance**

No Minnesota legal compliance findings were noted.



## FORMAL REQUIRED COMMUNICATIONS

Honorable Mayor and  
Members of the City Council  
City of Austin, Minnesota

We have audited the financial statements of the governmental activities, the business-type activities, each discretely presented component unit, each major fund, and the aggregate remaining fund information of the City of Austin (the City) for the year ended December 31, 2021, and have issued our report thereon dated May 6, 2022. We have previously communicated to you information about our responsibilities under auditing standards generally accepted in the United States of America, *Government Auditing Standards*, and Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), as well as certain information related to the planned scope and timing of our audit. Professional standards also require that we communicate to you the following information related to our audit.

### **Significant audit findings**

#### ***Qualitative aspects of accounting practices***

##### **Accounting policies**

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the City are described in Note 1 to the financial statements.

No new accounting policies were adopted and the application of existing policies was not changed during 2021.

We noted no transactions entered into by the City during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

##### **Accounting estimates**

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimates affecting the financial statements were:

- Management's estimate of the allowance for uncollectible receivables is based on an analysis of the collectability of amounts due, taking into account delinquencies and payment histories. We evaluated the key factors and assumptions used to develop the allowance in determining that it is reasonable in relation to the financial statements taken as a whole.

Honorable Mayor and  
Members of the City Council  
City of Austin, Minnesota

- Management's estimate of depreciation rates sufficient to fully depreciate the related capital assets over their useful lives is based on past experiences. We evaluated the key factors and assumptions used to develop the depreciation rates in determining that it is reasonable in relation to the financial statements taken as a whole.
- Management's estimate of other postemployment benefits payable is based on an actuarially determined calculation, less actual payments incurred on behalf of retirees and an actuarially determined estimate of implicit rate subsidy, which is the estimated increased cost of premiums due to inclusion of retirees in the same plan as the City's active employees.
- Management's estimate of the City's proportionate share of PERA's GERP and PEPFF net pension liability is based on guidance from GASB Statement No. 68 and each plan's respective allocation tables. Each plan's allocation tables allocate a portion of the plan's net pension liability based on the City's contributions from July 1, 2020 through June 30, 2021 as a percentage of the total contributions received for the related period of time by the plan.

**Financial statement disclosures**

Certain financial statement disclosures are particularly sensitive because of their significance to financial statement users. There were no particularly sensitive financial statement disclosures.

The financial statement disclosures are neutral, consistent, and clear.

***Difficulties encountered in performing the audit***

We encountered no significant difficulties in dealing with management in performing and completing our audit.

***Uncorrected misstatements***

Professional standards require us to accumulate all misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. Management has determined that the effects of uncorrected misstatements are immaterial, both individually and in the aggregate, to the financial statements taken as a whole. The following summarizes uncorrected misstatements of the financial statements:

- The City did not allocate OPEB to the Internal Service Fund of \$105,446 for the year ended December 31, 2021.

Uncorrected misstatements or the matters underlying uncorrected misstatements could potentially cause future-period financial statements to be materially misstated, even if management has concluded that the uncorrected misstatements are immaterial to the financial statements under audit.

***Corrected misstatements***

The following material misstatements detected as a result of audit procedures were corrected by management:

- The City determined that a receivable for municipal state aid street balances had not been recorded properly as of December 31, 2020. The restatement increased the January, 1, 2021, net position of governmental activities by \$3,052,082 and increased fund balance of the State Aid Street fund by \$161,918.

Honorable Mayor and  
Members of the City Council  
City of Austin, Minnesota

- The City also determined that the City's contributions for health insurance for employees, as detailed in the health insurance plan as of December 31, 2020, had not been deposited. The restatement decreased net position of governmental activities and decreased fund balance of the General Fund as of January 1, 2021, by \$195,116.

***Disagreements with management***

For purposes of this communication, a disagreement with management is a disagreement on financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditors' report. No such disagreements arose during our audit.

***Circumstances that affect the form and content of the auditors' report***

As previously communicated to you, the report was modified to change the beginning net position of the governmental activities and fund balances of the General Fund and State Aid Street Fund that were restated due to the correction of errors related to health insurance premiums and municipal state aid.

***Management representations***

We have requested certain representations from management that are included in the management representation letter dated May 6, 2022.

***Management consultations with other independent accountants***

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the City's financial statements or a determination of the type of auditors' opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

***Significant issues discussed with management prior to engagement***

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to engagement as the City's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our engagement.

***Audits of group financial statements***

We noted no matters related to the group audit that we consider to be significant to the responsibilities of those charged with governance of the group.

***Supplementary information in relation to the financial statements as a whole***

With respect to the required supplementary information (RSI) accompanying the financial statements, we made certain inquiries of management about the methods of preparing the RSI, including whether the RSI has been measured and presented in accordance with prescribed guidelines, whether the methods of measurement and preparation have been changed from the prior period and the reasons for any such changes, and whether there were any significant assumptions or interpretations underlying the measurement or presentation of the RSI. We compared the RSI for consistency with management's responses to the foregoing inquiries, the basic financial statements, and other knowledge obtained during the audit of the basic financial statements. Because these limited procedures do not provide sufficient evidence, we did not express an opinion or provide any assurance on the RSI.

Honorable Mayor and  
Members of the City Council  
City of Austin, Minnesota

With respect to the schedule of expenditures of federal awards (SEFA) accompanying the financial statements, on which we were engaged to report in relation to the financial statements as a whole, we made certain inquiries of management and evaluated the form, content, and methods of preparing the SEFA to determine that the SEFA complies with the requirements of the Uniform Guidance, the method of preparing it has not changed from the prior period or the reasons for such changes, and the SEFA is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the SEFA to the underlying accounting records used to prepare the financial statements or to the financial statements themselves. We have issued our report thereon dated May 6, 2022.

With respect to the combining and individual fund statements and schedules and debt service requirements to maturity (collectively, the supplementary information) accompanying the financial statements, on which we were engaged to report in relation to the financial statements as a whole, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with accounting principles generally accepted in the United States of America, the method of preparing it has not changed from the prior period or the reasons for such changes, and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the financial statements or to the financial statements themselves. We have issued our report thereon dated May 6, 2022.

#### **Other information included in annual reports**

Other information (financial or nonfinancial information other than the financial statements and our auditors' report thereon) is being included in your annual report and is comprised of the introductory section and statistical section. Our responsibility for other information included in your annual report does not extend beyond the financial information identified in our opinion on the financial statements. We have no responsibility for determining whether such other information is properly stated and do not have an obligation to perform any procedures to corroborate other information contained in your annual report. We are required by professional standards to read the other information included in your annual report and consider whether a material inconsistency exists between the other information and the financial statements because the credibility of the financial statements and our auditors' report thereon may be undermined by material inconsistencies between the audited financial statements and other information. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report. Our auditors' report on the financial statements includes a separate section, "Other Information," which states we do not express an opinion or any form of assurance on the other information included in the annual report.

Our auditors' opinion, the audited financial statements, and the notes to financial statements should only be used in their entirety. Inclusion of the audited financial statements in a document you prepare, such as an annual report, should be done only with our prior approval and review of the document. You are responsible to provide us the opportunity to review such documents before issuance.

Honorable Mayor and  
Members of the City Council  
City of Austin, Minnesota

This communication is intended solely for the information and use of the Members of the Council and management of the City, and is not intended to be, and should not be, used by anyone other than these specified parties.

*CliftonLarsonAllen LLP*

**CliftonLarsonAllen LLP**

Austin, Minnesota  
May 6, 2022

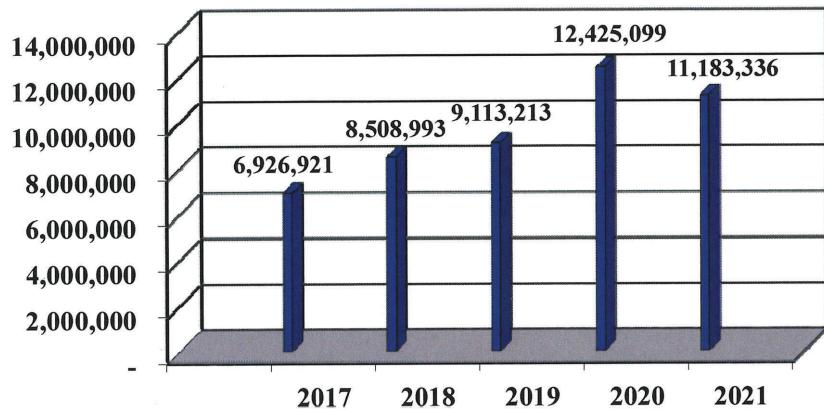
## **APPENDIX A**

### **FINANCIAL TRENDS OF YOUR CITY**

The following graphs reflect financial trends of City of Austin. Information related to fund balances, revenues, and expenditures was obtained from current and prior year audit reports. The information for the 2020 graph on page 9, which shows statewide averages, was obtained from website of the State of Minnesota Office of the State Auditor.

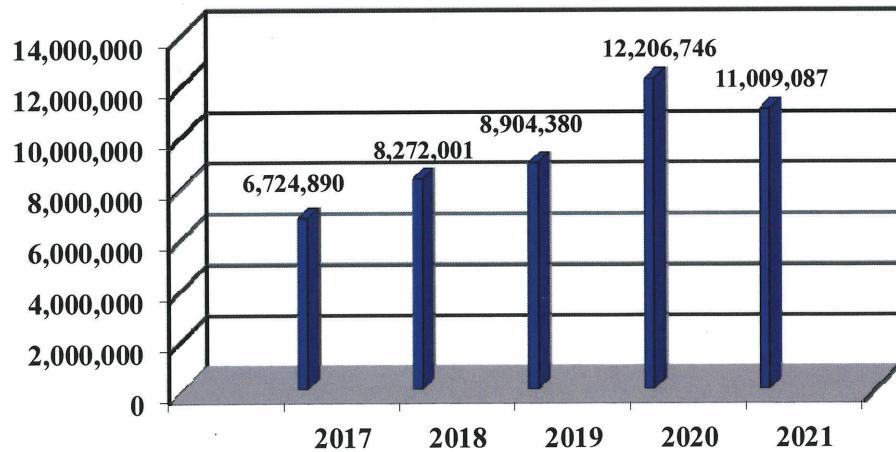
CITY OF AUSTIN  
General Fund  
Total Fund Balance

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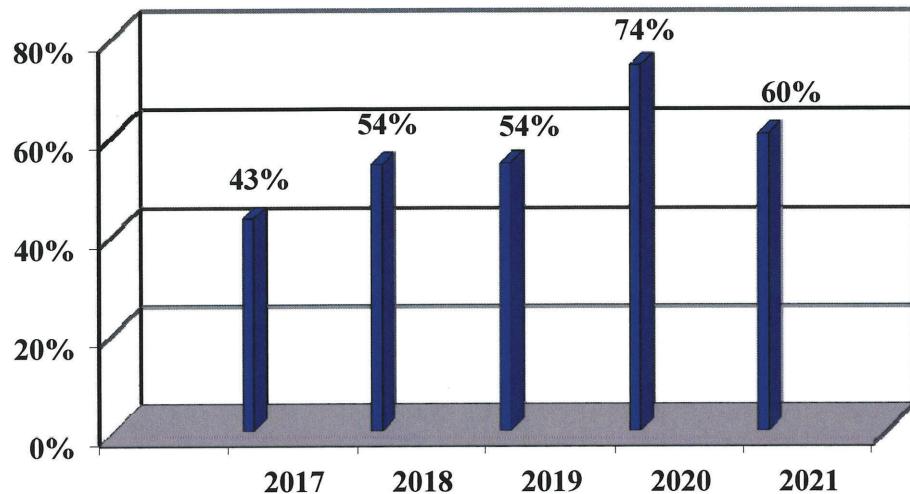


CITY OF AUSTIN  
General Fund  
Assigned and Unassigned Fund Balance

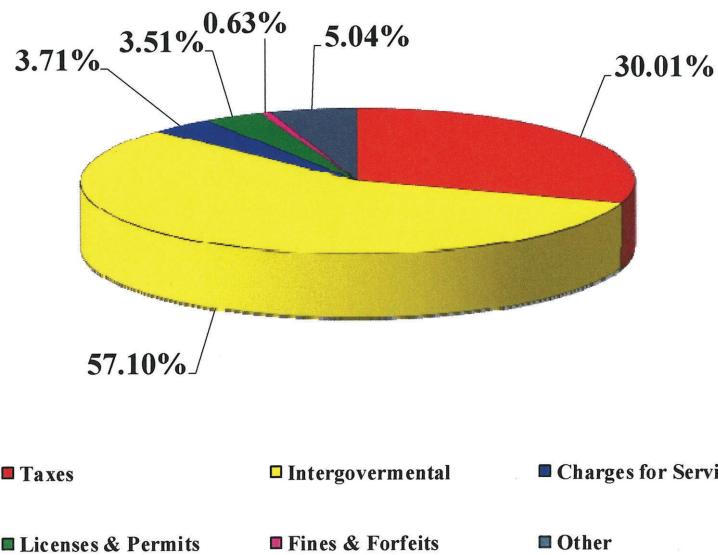
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**CITY OF AUSTIN**  
Percentage of General Fund Assigned and Unassigned  
Fund Balance to General Fund Expenditures

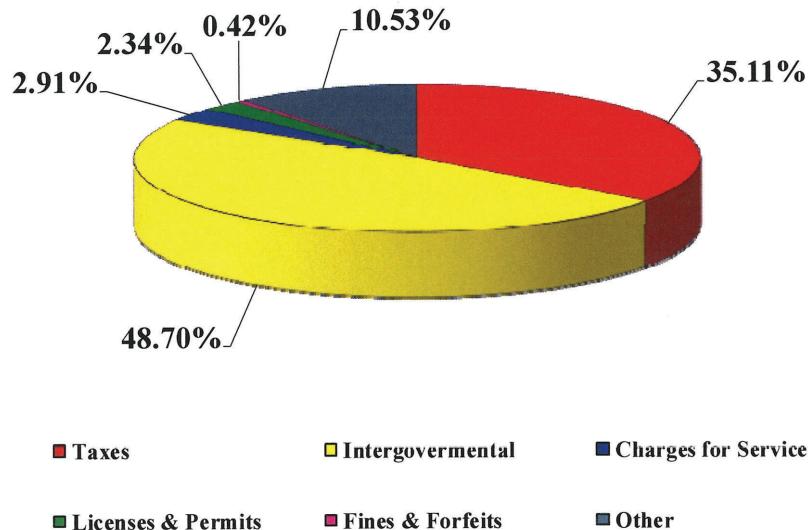


**CITY OF AUSTIN**  
2021 General Fund Revenues



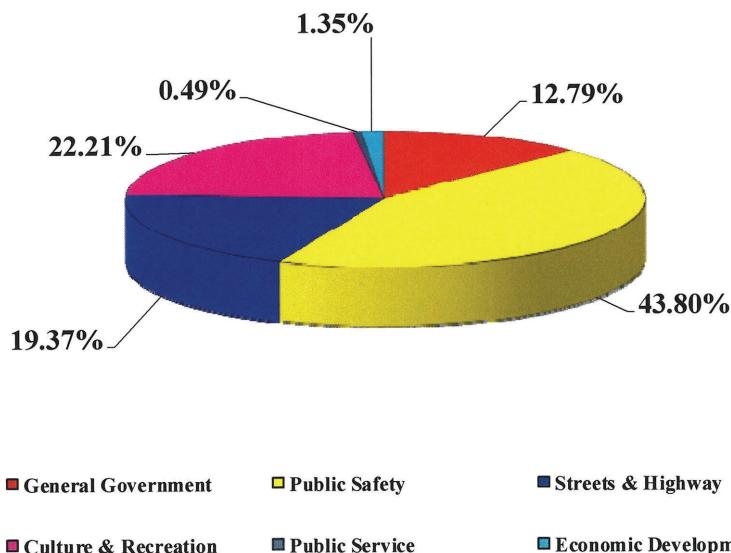
CITY OF AUSTIN  
2021 Total Governmental Fund Revenues

© 2022 City of Austin, Texas

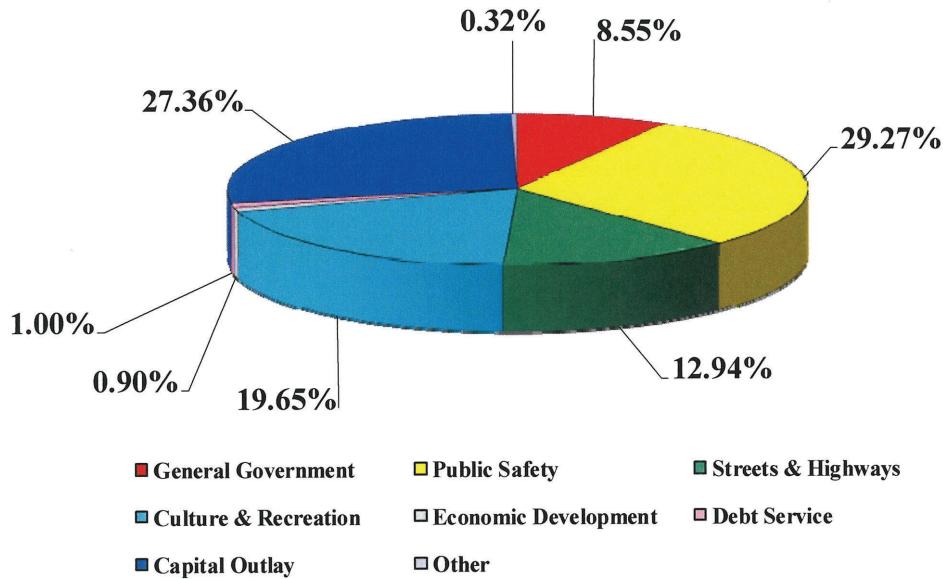


CITY OF AUSTIN  
2021 General Fund Expenditures

© 2022 City of Austin, Texas

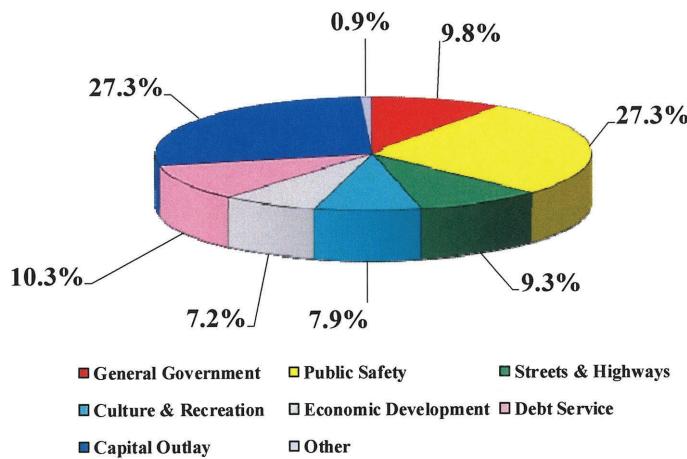


CITY OF AUSTIN  
2021 Governmental Fund Expenditures



© 2022 City of Austin, Texas

STATE OF MN AVERAGE  
2020 Total Governmental Expenditures  
Cities With Population 20,000 – 100,000



© 2022 City of Austin, Texas

Note: 2020 census = 26,174  
Source: State of Minnesota Office of the State Auditor, 2020 Revenues, Expenditures and Debt

Create Opportunities

**CITY OF AUSTIN, MINNESOTA**

**INDEPENDENT AUDITORS' REPORTS AS REQUIRED BY  
GOVERNMENT AUDITING STANDARDS AND UNIFORM  
GUIDANCE, SCHEDULE OF EXPENDITURES OF FEDERAL  
AWARDS, OTHER AUDIT REPORTS AND  
SCHEDULE OF FINDINGS AND QUESTIONED COSTS**

**YEAR ENDED DECEMBER 31, 2021**



**WEALTH ADVISORY | OUTSOURCING  
AUDIT, TAX, AND CONSULTING**

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**CITY OF AUSTIN, MINNESOTA  
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YEAR ENDED DECEMBER 31, 2021**

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**CITY OF AUSTIN, MINNESOTA**  
**SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS**  
**YEAR ENDED DECEMBER 31, 2021**

Federal Grantor/Program or Cluster Title	Pass-through Grantor	Federal Assistance Listing Number	Pass-Through Entity Identifying Number	Passed Through to Subrecipients	Federal Expenditures
<b>U.S. Department of Transportation:</b>					
COVID-19 Airport Improvement Program - CARES Act	Minnesota Department of Transportation	20.106	1045007	\$ -	\$ 189,754
COVID-19 Airport Improvement Program - CARES Act	Minnesota Department of Transportation	20.106	1048179	-	35,819
Airport Improvement Program	Minnesota Department of Transportation	20.106	1048179	-	322,370
	Total Assistance Listing Number 20.106				547,943
<i>Highway Safety Cluster:</i>					
Toward Zero Deaths Grant	Minnesota Department of Public Safety	20.600	P079221402	-	751
Toward Zero Deaths Grant	Minnesota Department of Public Safety	20.616	P079221405	-	7,310
	Total Highway Safety Cluster			-	8,061
Toward Zero Deaths Grant	Minnesota Department of Public Safety	20.608	P079221AL164	-	5,935
	Total U.S Department of Transportaion			-	561,939
<b>U.S. Department of the Treasury:</b>					
COVID-19 ARPA American Rescue Plan - Direct Aid	Minnesota Department of Employment and Economic Development	21.027	G90ARPADIST	-	1,335,040
COVID-19 ARPA American Rescue Plan - Direct Aid	Minnesota Department of Employment and Economic Development	21.027	G90ARPADIST	-	43,719
	Total Assistance Listing Number 21.027			-	1,378,759
<b>U.S. Department of Homeland Security</b>					
Hazard Mitigation	Minnesota Department of Public Safety	97.039	A-HGMP-DR4442-AUSTINCI-004	-	199,001
	Total Expenditures of Federal Awards			\$ -	\$ 2,139,699

See accompanying Notes to Schedule of Expenditures of Federal Awards.

**CITY OF AUSTIN, MINNESOTA**  
**NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS**  
**DECEMBER 31, 2021**

**NOTE 1 BASIS OF PRESENTATION**

The accompanying Schedule of Expenditures of Federal Awards (the Schedule) includes the federal award activity of the City of Austin, Minnesota (the City) under programs of the federal government for the year ended December 31, 2021. The information in this Schedule is presented in accordance with the requirements 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements of Federal Awards (Uniform Guidance)*. Because the Schedule presents only a selected portion of the operations of the City, it is not intended to and does not present the financial position, changes in net position, or cash flows of the City.

**NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

Expenditures reported on the Schedule are reported on the modified accrual basis of accounting. Such expenditures are recognized following the cost principles contained in the Uniform Guidance, wherein certain types of expenditures are not allowable or are limited as to reimbursement. The City has not elected to use the 10-percent de minimis indirect cost rate as allowed under the Uniform Guidance.



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**INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER  
FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS  
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN  
ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***

Honorable Mayor and  
Members of the City Council  
City of Austin  
Austin, Minnesota

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, each discretely presented component unit, each major fund, and the aggregate remaining fund information of the City of Austin (the City), Minnesota as of and for the year ended December 31, 2021, and the related notes to the financial statements, which collectively comprise the City's basic financial statements, and have issued our report thereon dated May 6, 2022.

***Report on Internal Control Over Financial Reporting***

In planning and performing our audit of the financial statements, we considered the City's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the City's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies, and therefore material weaknesses or significant deficiencies may exist that were not identified. We identified a certain deficiency in internal control, described in the accompanying schedule of findings and questioned costs as item 2021-001 that we consider to be a material weakness.

Honorable Mayor and  
Members of the City Council  
City of Austin, Minnesota

***Report on Compliance and Other Matters***

As part of obtaining reasonable assurance about whether the City's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

***City of Austin's Response to Findings***

*Government Auditing Standards* requires the auditor to perform limited procedures on the City's response to the findings identified in our audit and described in the accompanying schedule of findings and questioned costs. The City's response was not subjected to the other auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on the response.

***Purpose of This Report***

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the City's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the City's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

*CliftonLarsonAllen LLP*  
CliftonLarsonAllen LLP

Austin, Minnesota  
May 6, 2022



CliftonLarsonAllen LLP  
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## INDEPENDENT AUDITORS' REPORT ON COMPLIANCE FOR EACH MAJOR FEDERAL PROGRAM, REPORT ON INTERNAL CONTROL OVER COMPLIANCE, AND REPORT ON THE SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS REQUIRED BY THE UNIFORM GUIDANCE

Honorable Mayor and  
Members of the City Council  
City of Austin  
Austin, Minnesota

### Report on Compliance for Each Major Federal Program

#### *Opinion on Each Major Federal Program*

We have audited the City of Austin (the City), Minnesota's compliance with the types of compliance requirements identified as subject to audit in the OMB *Compliance Supplement* that could have a direct and material effect on each of the City's major federal programs for the year ended December 31, 2021. The City's major federal programs are identified in the summary of auditors' results section of the accompanying schedule of findings and questioned costs.

In our opinion, the City complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended December 31, 2021.

#### *Basis for Opinion on Each Major Federal Program*

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America (GAAS); the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and the audit requirements of Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Our responsibilities under those standards and the Uniform Guidance are further described in the Auditors' Responsibilities for the Audit of Compliance section of our report.

We are required to be independent of the City and to meet our other ethical responsibilities, in accordance with relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion on compliance for each major federal program. Our audit does not provide a legal determination of the City's compliance with the compliance requirements referred to above.

#### *Responsibilities of Management for Compliance*

Management is responsible for compliance with the requirements referred to above and for the design, implementation, and maintenance of effective internal control over compliance with the requirements of laws, statutes, regulations, rules and provisions of contracts or grant agreements applicable to the City's federal programs.

Honorable Mayor and  
Members of the City Council  
City of Austin, Minnesota

### ***Auditors' Responsibilities for the Audit of Compliance***

Our objectives are to obtain reasonable assurance about whether material noncompliance with the compliance requirements referred to above occurred, whether due to fraud or error, and express an opinion on the City's compliance based on our audit. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance will always detect material noncompliance when it exists. The risk of not detecting material noncompliance resulting from fraud is higher than for that resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Noncompliance with the compliance requirements referred to above is considered material if there is a substantial likelihood that, individually or in the aggregate, it would influence the judgment made by a reasonable user of the report on compliance about the City's compliance with the requirements of each major federal program as a whole.

In performing an audit in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance, we:

- exercise professional judgment and maintain professional skepticism throughout the audit.
- identify and assess the risks of material noncompliance, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the City's compliance with the compliance requirements referred to above and performing such other procedures as we considered necessary in the circumstances.
- obtain an understanding of the City's internal control over compliance relevant to the audit in order to design audit procedures that are appropriate in the circumstances and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control over compliance. Accordingly, no such opinion is expressed.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and any significant deficiencies and material weaknesses in internal control over compliance that we identified during the audit.

### **Report on Internal Control Over Compliance**

A *deficiency in internal control over compliance* exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. A *material weakness in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Honorable Mayor and  
Members of the City Council  
City of Austin, Minnesota

Our consideration of internal control over compliance was for the limited purpose described in the Auditors' Responsibilities for the Audit of Compliance section above and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies in internal control over compliance. Given these limitations, during our audit we did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above. However, material weaknesses or significant deficiencies in internal control over compliance may exist that were not identified.

Our audit was not designed for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, no such opinion is expressed.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

**Report on Schedule of Expenditures of Federal Awards Required by the Uniform Guidance**

We have audited the financial statements of the governmental activities, the business-type activities, each discretely presented component unit, each major fund, and the aggregate remaining fund information of the City as of and for the year ended December 31, 2021, and the related notes to the financial statements, which collectively comprise the City's basic financial statements. We issued our report thereon dated May 6, 2022, which contained unmodified opinions on those financial statements. Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the basic financial statements. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by the Uniform Guidance and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the schedule of expenditures of federal awards is fairly stated in all material respects in relation to the basic financial statements as a whole.

*CliftonLarsonAllen LLP*

CliftonLarsonAllen LLP

Austin, Minnesota  
May 6, 2022



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## INDEPENDENT AUDITORS' REPORT ON MINNESOTA LEGAL COMPLIANCE

Honorable Mayor and  
Members of the City Council  
City of Austin  
Austin, Minnesota

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, each discretely presented component unit, each major fund, and the aggregate remaining fund information of the City of Austin, Minnesota (the City) as of and for the year ended December 31, 2021, and the related notes to the financial statements, and have issued our report thereon dated May 6, 2022.

In connection with our audit, nothing came to our attention that caused us to believe that the City failed to comply with the provisions of the contracting-bid laws, depositories of public funds and public investments, conflicts of interest, public indebtedness, claims and disbursements, miscellaneous provisions, and tax increment financing sections of the *Minnesota Legal Compliance Audit Guide for Cities*, promulgated by the State Auditor pursuant to Minn. Stat. § 6.65, insofar as they relate to accounting matters. However, our audit was not directed primarily toward obtaining knowledge of such noncompliance. Accordingly, had we performed additional procedures, other matters may have come to our attention regarding the City's noncompliance with the above-referenced provisions, insofar as they relate to accounting matters.

The purpose of this report is solely to describe the scope of our testing of compliance relating to the provisions of the *Minnesota Legal Compliance Audit Guide for Cities* and the results of that testing, and not to provide an opinion on compliance. Accordingly, this report is not suitable for any other purpose.

*CliftonLarsonAllen LLP*  
CliftonLarsonAllen LLP

Austin, Minnesota  
May 6, 2022

**CITY OF AUSTIN, MINNESOTA  
SCHEDULE OF FINDINGS AND QUESTIONED COSTS  
YEAR ENDED DECEMBER 31, 2021**

**PART I: SUMMARY OF THE INDEPENDENT AUDITOR'S RESULTS**

Financial Statements

1. Type of auditors' report issued:	Unmodified			
2. Internal control over financial reporting:				
• Material weakness(es) identified?	<input checked="" type="checkbox"/>	yes	<input type="checkbox"/>	no
• Significant deficiency(ies) identified?	<input type="checkbox"/>	yes	<input checked="" type="checkbox"/>	none reported
3. Noncompliance material to financial statements noted?	<input type="checkbox"/>	yes	<input checked="" type="checkbox"/>	no

Federal Awards

1. Internal control over major federal programs:				
• Material weakness(es) identified?	<input type="checkbox"/>	yes	<input checked="" type="checkbox"/>	no
• Significant deficiency(ies) identified?	<input type="checkbox"/>	yes	<input checked="" type="checkbox"/>	none reported
2. Type of auditors' report issued on compliance for major federal programs	Unmodified			
3. Any audit findings disclosed that are required to be reported in accordance with 2 CFR 200.516 (a)	<input type="checkbox"/>	yes	<input checked="" type="checkbox"/>	no

***Identification of Major Federal Programs***

**Assistance Listing Number(s)**  
21.027

**Name of Federal Program or Cluster**  
COVID-19 ARPA American Rescue Plan – Direct Aid

Dollar threshold used to distinguish between Type A and Type B programs:

\$ 750,000

Auditee qualified as low-risk auditee?

yes  no

**CITY OF AUSTIN, MINNESOTA  
SCHEDULE OF FINDINGS AND QUESTIONED COSTS (CONTINUED)  
YEAR ENDED DECEMBER 31, 2021**

**PART II: FINDINGS RELATED TO THE BASIC FINANCIAL STATEMENTS**

**FINDING: 2021-001 PRIOR PERIOD ADJUSTMENTS**

**Type of Finding:** Material weakness in internal control over financial reporting

**Condition:** The City determined that the City's contributions for health insurance for employees, as detailed in the health insurance plan as of December 31, 2020, had not been deposited. As a result net position of governmental activities and fund balance of the General Fund was restated as of January 1, 2021, to correct the error.

**Criteria or Specific Requirement:** The City should be able to prevent or detect and correct a material misstatement in the annual financial statements including footnote disclosures in a timely manner.

**Effect:** The potential exists that a material misstatement could occur in the financial statements and not be prevented or detected by the City's internal controls.

**Cause:** This item was due to an unintentional oversight.

**Recommendation:** The City should continue to evaluate their internal processes to determine if additional internal control procedures should be implemented to ensure that accounts are adjusted to their appropriate year-end balances in accordance with accounting principles generally accepted in the United States of America.

**Views of  
Responsible Officials  
and Planned Corrective**

**Actions:** The City will evaluate whether additional internal control policies should be implemented to ensure that accounts are adjusted to their appropriate year-end balances in accordance with accounting principles generally accepted in the United States of America.

**PART III: FINDINGS AND QUESTIONED COSTS FOR FEDERAL AWARDS**

Our audit did not disclose any matters required to be reported in accordance with 2 CFR 200.516(a).

**PART IV: FINDINGS RELATED TO MINNESOTA LEGAL COMPLIANCE**

Our audit did not disclose any matters required to be reported for Minnesota Legal Compliance in the current year.

# AUSTIN POLICE DEPARTMENT

## LAW ENFORCEMENT CENTER

201 1<sup>ST</sup> STREET NE STE 2 AUSTIN MN 55912 (507) 437-9400 FAX: (507) 437-9546



6-1-22

Mayor and Council,

In 2019 the City revised the 6.34 section of code as it dealt with tobacco. This was done at the behest of members in the public health sector in order to enact new provisions that barred sales to those under the age of 21. This was referred to as T21. The City of Austin was one of many cities that adopted T21 at that time which set our ordinance as more restrictive than the State's. We also raised and adopted administrative penalties at the time that were more than the State minimums.

It did not affect the possession or use of said products by those 18-20 years of age. It was recommended to Austin by the State advocates at the time to remove our provisions related to possession, use, and purchasing by those under 18 years of age. These are called "PUP" laws. We elected not to remove those provisions from our ordinance. We were however not using that section of ordinance to cite violators but rather section 609.685 of state code to do so.

In 2020 the State of Minnesota made "T21" provisions state law. In this regard, they now had the same standard as Austin. They additionally raised the administrative penalties so that they now exceeded Austin's. The State also struck out the "PUP" provisions from 609.685 that had previously made those certain tobacco offenses by those under 18 illegal. There was also a slight change to some language in how a licensing authority is to complete compliance checks.

At this time, we are asking Council to approve several updates to our ordinance in order to bring it back into alignment with the statutory language.

- Set our administrative penalty language to match the State's requirements.
- Modify our compliance check language to match the State's.
- Remove "PUP" language from our ordinance and modify some language to match State language on using a state issued ID to purchase/attempt to purchase tobacco by someone under 21.

The biggest change is going to be the elimination of the possession, use, and purchase offenses by those under 18. While I did not support eliminating this in 2019 nor would I have when the State considered these changes in 2020, this is the direction that the State of Minnesota elected to go in after getting feedback from their public health professionals. Up until that point, we did use 609.685 to cite for these offenses and not 6.34. We have not used 6.34 to cite for these since that law change.

# **AUSTIN POLICE DEPARTMENT**

## **LAW ENFORCEMENT CENTER**

201 1<sup>ST</sup> STREET NE STE 2 AUSTIN MN 55912 (507) 437-9400 FAX: (507) 437-9546



Since our agency is not citing for these offenses frequently at this time it might make sense to remove them from ordinance as well in keeping with the intent of the State legislature. I would also note that while infrequent, challenges under ordinance are not heard in court first but rather a hearing process. Due to some other challenges in processing these citations using our ordinance I do not think it is worth using for "PUP" enforcement if the public health sector does not support "PUP" laws or believe that they are having the desired effect on youth smoking outcomes.

I have attached a flier that explains many of these changes and outlines the thinking on "PUP" law removal from statute.

Respectfully,

Chief David McKichan

## ORDINANCE NO.

### AN ORDINANCE FOR THE CITY OF AUSTIN, MINNESOTA AMENDING CHAPTER 6, SECTION 6.34, REGARDING TOBACCO COMPLIANCE CHECKS AND PENALITIES.

The City Council of the City of Austin does ordain:

SECTION 1. Section 6.34, Subdivision 2 (C), of City Code Chapter 10, shall be amended to read as follows:

**§ 6.34, Subd. 2 (A)** is revised as follows:

**COMPLIANCE CHECKS.** The system the city uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this section. Compliance checks conducted under this section must involve persons at least 17 years of age, but under the age of 21, who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products under the direct supervision of a law enforcement officer or an employee of the licensing authority. The age requirements for persons participating in compliance checks under this section shall not affect the age requirements in federal law for persons participating in federally required compliance checks of these locations.

**§ 6.34, Subd. 10** is revised as follows:

*Compliance checks and inspections.* All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks. In accordance with state law, the city will conduct at least one compliance check that involves the participation of a person between the ages of 17-20 to enter the licensed premises to attempt to purchase licensed products. Prior written consent from a parent or guardian is required for any person under the age of 18 to participate in a compliance check. Persons used for the purpose of compliance checks will be supervised by law enforcement or other designated personnel.

**§ 6.34, Subd. 11** is revised as follows:

**A. Illegal sales** It shall be a violation of this section for any person to sell or otherwise provide any licensed product to any person who is under the age of 21.

**B. Illegal procurement.** It shall be a violation of this section for any person to purchase or otherwise obtain those items on behalf of a person under age 21. It shall further be a violation for any person to coerce or attempt to coerce a person under the age of 21 to illegally purchase or otherwise obtain or use any licensed product. This division D. shall not apply to minors lawfully involved in a compliance check.

**C. Use of false identification.** A person under the age of 21 years who purchases or attempts to purchase tobacco, tobacco-related devices, or electronic delivery devices and who uses a driver's license, permit, Minnesota identification card, or any type of

false identification to misrepresent the person's age, shall only be subject to an alternative civil penalty, in accordance with subd 13.B.3..

**§ 6.34, Subd. 13 (B)** is revised as follows:

*Administrative penalties.*

1. *Licensees:* If a licensee or employee of a licensee sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years, or violates any other provision of this section, the licensee shall be charged an administrative penalty of \$300 for the first violation. An administrative penalty of \$600 must be imposed for a second violation at the same location within 36 months after the initial violation. For a third or any subsequent violation at the same location within 36 months after the initial violation, an administrative penalty of \$1,000 must be imposed, and the licensee's authority to sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products at that location must be suspended for not less than seven days and may be revoked. No suspension, revocation, or other penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.
2. *Other individuals.* An individual who sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years may be charged an administrative penalty of \$50. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.
3. *Alternative penalties for subd. 11.C.* Law enforcement and court system representatives shall consult, as applicable, with interested persons, including but not limited to parents, guardians, educators, and persons under the age of 21 years, to develop alternative civil penalties for persons under the age of 21 years who violate this section. Consulting participants shall consider a variety of alternative civil penalties including but not limited to tobacco-free education programs, community service, court diversion programs, and tobacco cessation programs, and for persons under the age of 18 years, notice to schools and to parents or guardians. Alternative civil penalties developed under this subdivision shall not include fines or monetary penalties.
4. *Misdemeanor.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this section.

5. *Statutory penalties.* If the administrative penalties authorized to be imposed by M.S. § 461.12, as it may be amended from time to time, differ from those established in this section, then the statutory penalties shall prevail.

Passed by a vote of yeas and nays this 7th day of September, 2021

YEAS

NAYS

ATTEST:

---

City Recorder

APPROVED:

---

Mayor

This ordinance was introduced on June 20, 2022; approved on June 20, 2022; was published in the Austin Daily Herald on \_\_\_\_\_; and becomes effective \_\_\_\_\_.

City of Austin  
500 Fourth Avenue N.E.  
Austin, Minnesota 55912-3773



Phone: 507-437-9940

www.ci.austin.mn.us

## MEMO

TO: Mayor and City Council

FROM: Tom Dankert *TD*

DATE: June 20, 2022

SUBJECT: Mileage Reimbursement Rate – July 1, 2022  
U:\Word\2021\Miscellaneous\2022 Mileage Rate2.doc

Effective July 1, 2022 the federal mileage reimbursement rate is increasing from the current rate of 58.5 cents per mile to a new rate of **62.5** cents per mile (increasing 4.0 cents per mile). The massive surge in gas prices has resulted in the IRS taking this step to increase reimbursement rates mid-year.

The City of Austin has followed the federal rate for our reimbursement policy, and as such a resolution setting the mileage reimbursement rate should be set by Council. Please see the attached for the announcement from the IRS.

If you have any questions, please do not hesitate to give me a call at 437-9959.

## Journal of Accountancy

# Standard mileage rate to increase for last half of 2022

By Alistair M. Nevius, J.D.

June 9, 2022



The IRS announced on Thursday that the optional standard mileage rate is increasing by 4 cents per mile for the last six months of 2022. Effective July 1, the standard mileage rate for business travel will be 62.5 cents per mile ([Announcement 2022-13](https://www.irs.gov/pub/irs-drop/a-22-13.pdf) (<https://www.irs.gov/pub/irs-drop/a-22-13.pdf>)).



The rate for deductible medical or moving expenses (which is available only for active-duty members of the military) is also increasing by 4 cents per mile and will be 22 cents for the second half of 2022.

The IRS says it is making the adjustment in recognition of recent increases in the cost of gasoline. Normally, the adjustment is made annually (the 2022 rate was originally set in Notice 2022-03), but IRS Commissioner Charles Rettig said the Service was taking this "special step" "to better reflect the recent increases in fuel prices." The IRS last made a midyear adjustment to the rate in 2011.

Taxpayers can use the optional business standard mileage rate to compute the deductible costs of operating an automobile for business use in lieu of tracking actual costs. The federal government and many businesses also use the rate to reimburse their employees for mileage.

— To comment on this article or to suggest an idea for another article, contact Alistair M. Nevius at [Alistair.Nevius@aicpa-cima.com](mailto:Alistair.Nevius@aicpa-cima.com) (<mailto:Alistair.Nevius@aicpa-cima.com>).

---

<https://future.aicpa.org/home>

**RESOLUTION NO.**

**RESOLUTION SETTING THE MILEAGE REIMBURSEMENT RATE**

**WHEREAS**, effective July 1, 2022, the federal mileage reimbursement rate will increase to 62.5¢ cents per mile; and

**WHEREAS**, the City of Austin has followed the federal rate for its reimbursement policy; and

**NOW THEREFORE, BE IT RESOLVED THAT:**

The mileage reimbursement rate for official business use of private vehicles will be 62.5¢ per mile effective July 1, 2022.

Passed by a vote of yeas and nays this 20th day of June, 2022.

YEAS

NAYS

ATTEST:

---

City Recorder

APPROVED:

---

Mayor

RESOLUTION NO.

**ACCEPTING DONATIONS TO THE CITY OF AUSTIN**

WHEREAS, the City has received gift as follows:

Gift	Donor	For
\$1,000	Ankeny Dairy Foods	Farmer's Market Stage Crank
\$1,000	Morning Lions Club	Park Maintenance Donation
\$300	Morning Lions Club	Bike Club Donation
\$2,500	Hormel Foods	Bike Club Donation

NOW THEREFORE, BE IT RESOLVED that the Austin City Council accepts said gifts to the City of Austin.

Passed by a vote of yeas and nays this 20th day of June, 2022.

YEAS

NAYS

ATTEST:

---

City Recorder

APPROVED:

---

Mayor

City of Austin  
500 Fourth Avenue N.E.  
Austin, Minnesota 55912-3773



Planning & Zoning Department  
507-437-9950  
Fax 507-437-7101

# Memorandum

**To:** Mayor and City Council

**From:** Holly Wallace, Planning & Zoning Administrator

**Cc:** Steven Lang, City Engineer

**Date:** June 15, 2022

**Re:** Establishment of Joint Airport Zoning Board

---

As part of the establishment of the Joint Airport Zoning Board, the city sent proposed resolutions for appointment of representatives in each township which encompassed the airport as well as Mower County.

Lansing Township and Mower County have appointed representatives. Windom and Austin Townships have not made appointments. The members of the JAZB will be:

City of Austin – Rick Stouli and Greg Vortherm

Mower County – Valerie Sheedy and Taggart Medgaarden

Lansing Township – Robert Morgan and Gary Braaten

Red Rock – Sharrie Garbisch and Chen Webber

Attached are proposed resolutions appointing the city representatives to the JAZB, establishing the JAZB, and relieving the city of the requirement of appointing representatives from the jurisdictions that chose not to participate.

If you have any questions, please contact me or Steven Lang.

**RESOLUTION NO. 2022 4 19**

**Lansing Township**

**AUTHORIZING THE CREATION OF A JOINT AIRPORT ZONING BOARD**

At a meeting of the Town Board of Lansing Township, hereinafter called the Township on April 19, 2022, Board Member Robert Morgan seconded by Board Member Gary Braaten introduced the following resolution and moved its adoption.

WHEREAS, The Township of The City of Austin, hereinafter called the Municipality, owns and controls the Austin Municipal airport; and

WHEREAS, Portions of the airport hazard area adjacent to the airport are located outside the territorial limits of said Municipality but within the territorial limits of this Township and

WHEREAS, The above Municipality has requested in writing that we join with them in the creation of a Joint Airport Zoning Board; and

WHEREAS, This Township deems it necessary and expedient to create a Joint Airport Zoning Board in cooperation with the above Municipality pursuant to Minnesota Statutes Section 360.063, Subdivision 3, and other applicable laws for the purpose of establishing, administering and enforcing zoning laws for the areas surrounding the airport and for the protection of the airport and the public; and

WHEREAS, The above statute provides that this Township has the right to appoint two (2) persons to said Board (said persons should not be members of this Board); and

WHEREAS, Subdivision. 3 of Section 32 of the Appropriations Bill passed by the Minnesota Legislature effective July 1, 1973, provides that no moneys shall be expended by the Commissioner of Transportation of the State of Minnesota to improve and maintain an airport unless the governmental unit owning the airport has or is establishing a zoning authority for the airport.

NOW, THEREFORE, BE IT RESOLVED By the undersigned Township as follows:

1. That there is hereby created in cooperation with the above Municipality a Joint Airport Zoning Board to be composed of representatives of the undersigned Township and representatives of the above Municipality pursuant to Minnesota Statutes Section 360.063, Subdivision 3.

2. That the undersigned Township hereby appoints (said persons should not be members of this Board) Bernie Boverhuis and William Stegemann to be its representatives on said Board, said persons to serve for an indefinite term until they resign or are replaced by the undersigned Township.

ROLL CALL: Members voting aye: Supervisor Mark Ratigan, Supervisor Gary Braaten, Chairman Duane Mortensen, Supervisor Robert Morgan

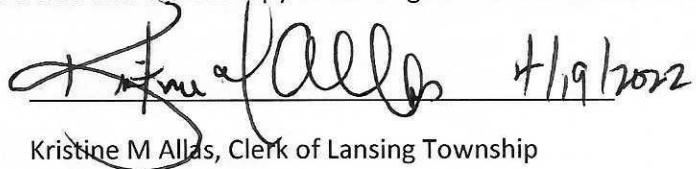
Members voting nay: 0

(Supervisor Steve Torgerson was absent)

Resolution declared passed: Chairman Duane Mortensen

Attest: I hereby certify that the foregoing resolution is a true and correct copy of the original resolution and is now on file in my office and is recorded in Lansing Town Hall.

SEAL

  
Kristine M Allas, Clerk of Lansing Township

RESOLUTION NO. 2022-1 OF 2022

OF Red Rock Township

AUTHORIZING THE CREATION OF A JOINT AIRPORT ZONING BOARD

At a meeting of the Town Board of Red Rock Township, hereinafter called the Township on  
April 18, 2022, Board Member Peterson seconded by Board  
Member Holst introduced the following resolution and moved its adoption.

WHEREAS, The Township of The City of Austin, hereinafter called the Municipality, owns and  
controls the Austin Municipal airport; and

WHEREAS, Portions of the airport hazard area adjacent to the airport are located outside the  
territorial limits of said Municipality but within the territorial limits of this Township and

WHEREAS, The above Municipality has requested in writing that we join with them in the  
creation of a Joint Airport Zoning Board; and

WHEREAS, This Township deems it necessary and expedient to create a Joint Airport Zoning  
Board in cooperation with the above Municipality pursuant to Minnesota Statutes Section 360.063,  
Subdivision 3, and other applicable laws for the purpose of establishing, administering and enforcing  
zoning laws for the areas surrounding the airport and for the protection of the airport and the public;  
and

WHEREAS, The above statute provides that this Township has the right to appoint two (2)  
persons to said Board (said persons should not be members of this Board); and

WHEREAS, Subdivision. 3 of Section 32 of the Appropriations Bill passed by the Minnesota  
Legislature effective July 1, 1973, provides that no moneys shall be expended by the Commissioner of  
Transportation of the State of Minnesota to improve and maintain an airport unless the governmental  
unit owning the airport has or is establishing a zoning authority for the airport.

NOW, THEREFORE, BE IT RESOLVED By the undersigned Township as follows:

1. That there is hereby created in cooperation with the above Municipality a Joint Airport Zoning  
Board to be composed of representatives of the undersigned Township and representatives of  
the above Municipality pursuant to Minnesota Statutes Section 360.063, Subdivision 3.

2. That the undersigned Township hereby appoints (said persons should not be members of this  
Board) Sharne Garbisch and Cheri Webster to be its representatives on said  
Board, said persons to serve for an indefinite term until they resign or are replaced by the undersigned  
Township.

ROLL CALL

Members voting aye: 3

Members voting nay: 0

Resolution declared passed: ✓

(Name And Title)

Attest: Roxanne Belot

I hereby certify that the foregoing resolution is a true and correct copy of the original resolution and is now on file in my office and is recorded in in our minutes at town hall.

SEAL OR Auditor or Clerk NOTARY STAMP

Roxanne Belot

Auditor or Clerk

**RESOLUTION**  
**AUTHORIZING THE CREATION OF A JOINT AIRPORT ZONING BOARD**

On motion of Commissioner Mueller, seconded by Commissioner Reinartz, the following Resolution was passed and adopted by the Mower County Board of Commissioners at a meeting held June 7, 2022 at the Government Center, Austin, Minnesota.

**WHEREAS**, The City of Austin hereinafter called the Municipality, owns and controls the Austin Municipal airport; and

**WHEREAS**, Portions of the airport hazard area adjacent to the airport are located outside the territorial limits of said Municipality but within the territorial limits of Mower County and

**WHEREAS**, The above Municipality has requested in writing that we join with them in the creation of a Joint Airport Zoning Board; and

**WHEREAS**, Mower County deems it necessary and expedient to create a Joint Airport Zoning Board in cooperation with the above Municipality pursuant to Minnesota Statutes Section 360.063, Subdivision 3, and other applicable laws for the purpose of establishing, administering and enforcing zoning laws for the areas surrounding the airport and for the protection of the airport and the public; and

**WHEREAS**, The above statute provides that Mower County has the right to appoint two (2) persons to said Board (said persons should not be members of this Board); and

**WHEREAS**, Subdivision 3 of Section 32 of the Appropriations Bill passed by the Minnesota Legislature effective July 1, 1973, provides that no moneys shall be expended by the Commissioner of Transportation of the State of Minnesota to improve and maintain an airport unless the governmental unit owning the airport has or is establishing a zoning authority for the airport.

**NOW, THEREFORE, BE IT RESOLVED** By Mower County as follows:

1. That there is hereby created in cooperation with the above Municipality a Joint Airport Zoning Board to be composed of representatives of Mower County and representatives of the above Municipality pursuant to Minnesota Statutes Section 360.063, Subdivision 3.

2. That Mower County hereby appoints (*said persons should not be members of this Board*) Valerie Sheedy, Mower County Environmental Services Assistant Supervisor and Taggart Medgaarden, as a citizen at large, to be its representatives on said Board, said persons to serve for an indefinite term until they resign or are replaced by Mower County.

Passed and approved this 7<sup>th</sup> day of June, 2022.

**THE MOWER COUNTY BOARD OF COMMISSIONERS**

By: Jeff Baldus  
Chairperson

By: Christie Hause  
Clerk/Administrator

RESOLUTION NO.\_\_\_\_\_

of the City Council of Austin Minnesota (Airport Owner)

AUTHORIZING THE CREATION OF A JOINT AIRPORT ZONING BOARD

At a meeting of the Council of Austin, MN, hereinafter referred to as the Municipality, on the 20th day of June 2022, Member \_\_\_\_\_, seconded by Member \_\_\_\_\_, introduced the following resolution and moved its adoption.

WHEREAS, This Municipality owns and controls the Austin Municipal Airport; and

WHEREAS, Portions of the airport hazard area adjacent to the airport are located outside the territorial limits of this Municipality but within the territorial limits of Mower County and Townships of Red Rock, Windom, Lansing and Austin and

WHEREAS, This Municipality deems it necessary and expedient to create a Joint Airport Zoning Board in cooperation with the above County and Townships pursuant to Minnesota Statutes Section 360.063, Subdivision 3, and other applicable laws for the purpose of establishing, administering and enforcing zoning laws for the areas surrounding the airport and for the protection of the airport and the public; and

WHEREAS, the above statute provides that this Municipality has the right to appoint two persons to said Board (said persons should not be members of this Council); and

WHEREAS, Subdivision. 8 of Section 32 of the Appropriations Bill passed by the Minnesota Legislature effective July 1, 1973, provides that no moneys shall be expended by the Commissioner of Transportation of the State of Minnesota to improve and maintain an airport unless the governmental unit owning the airport has or is establishing a zoning authority for the airport.

NOW, THEREFORE, BE IT RESOLVED By the undersigned Municipality as follows:

1. That there is hereby created in cooperation with the above County and Townships a Joint Airport Zoning Board to be composed of representatives of the undersigned Municipality and representatives of the above County and Townships, pursuant to Minnesota Statutes Section 360.063, Subdivision 3.

2. That the undersigned Municipality hereby appoints (said persons should not be members of this Council) Greg Vortherms and Rick Stouli to be its representatives on said Board, said persons to serve for an indefinite term until they resign or are replaced by the undersigned Municipality.

Adopted by a vote of yeas and nays on the 20<sup>th</sup> day of June, 2022

ATTEST:

---

City Recorder

APPROVED:

---

Mayor

**RESOLUTION NO. \_\_\_\_\_ OF  
OF THE CITY OF AUSTIN**

**AUTHORIZING SAID MUNICIPALITY TO ZONE AREAS SURROUNDING ITS AIRPORT**

WHEREAS, On June 20<sup>th</sup> 2022, this municipality passed a resolution authorizing the municipality to create a Joint Airport Zoning Board in cooperation with Mower County and Townships of Red Rock, Windom, Lansing and Austin, City of Austin, ; and

WHEREAS, The municipality, on March 18, 2022, mailed a letter to said County and Townships, requesting their participation in the creation of said Joint Airport Zoning Board; and

WHEREAS, More than sixty days have passed since said mailing; and

WHEREAS, Mower County, Red Rock and Lansing Townships have responded; and Windom, and Austin Township will not participate in the creation of the Board.

WHEREAS, In such events, Minnesota Statutes Section 360.063, Subdivision 3 authorizes the municipality to adopt, administer and enforce airport zoning regulations for the airport hazard area in question, even if said area is outside of the boundaries of the City of Austin.

THEREFORE, BE IT RESOLVED By this municipality, as follows:

1. That Resolution No. \_\_\_\_\_, dated June 20, 2022, authorizing the municipality to cooperate with Windom, and Austin Townships in the creation of a Joint Airport Zoning Board is hereby rescinded and the appointments to said Board made therein are likewise rescinded.
2. That the municipality does hereby authorize its staff to proceed in cooperation with the Minnesota Department of Transportation (Mn/DOT), Office of Aeronautics, with the preparation of an Airport Zoning Ordinance concerning the airport hazard area surrounding the airport.
3. That, in accordance with Minnesota Statutes 360.063 Subdivision 3, this municipality intends to adopt, administer, and enforce airport zoning regulations for the airport hazard area in question.

Members voting aye: \_\_\_\_\_

Members voting nay: \_\_\_\_\_

Resolution declared passed: \_\_\_\_\_

(Name and Title) Attest:

I hereby certify that the foregoing resolution is a true and correct copy of the original resolution and is now on file in my office and is recorded in \_\_\_\_\_.

\_\_\_\_\_ Clerk

Date: \_\_\_\_\_

SEAL OR  
NOTARY STAMP

City of Austin  
Zoning Department



500 Fourth Avenue N.E.  
Austin, Minnesota 55912-3773  
Phone: 507-437-9950  
Fax: 507-437-7101  
[www.ci.austin.mn.us](http://www.ci.austin.mn.us)

## Memorandum

**To:** Mayor and City Council

**Cc:** April & Trevor Andree  
1802 3<sup>rd</sup> St NE, Austin, MN 55912

**From:** Holly Wallace, Planning & Zoning Administrator

**Re:** Accumulation of Refuse and Junk  
At 1802 3<sup>rd</sup> St NE, Andree Property

**Date:** June 17, 2022

---

May I ask the City Council to approve granting the Planning & Zoning Department the power to contract for the removal of refuse and junk at 1802 3<sup>rd</sup> St NE. The property owner has been notified of this violation to the City Code Sections 10.14 Subd.1(B), 10.14 Subd.4-6 but has failed to resolve this issue. (See Attached)

Therefore, I am requesting the Mayor and City Council to approve empowering the Planning & Zoning Department to act on the removal of this junk. Such action is permitted by the City Code Section 10.14.

Thank You

**City of Austin  
Zoning Department**



**500 Fourth Avenue N.E.  
Austin, Minnesota 55912-3773  
Phone: 507-437-9950  
Fax: 507-437-7101  
www.ci.austin.mn.us**

April 27<sup>th</sup>, 2022

April & Trevor Andree  
1802 3<sup>rd</sup> St NE  
Austin, MN 55912

RE: Zoning Violations at 1802 3<sup>rd</sup> St NE, Austin, MN 55912

Dear April & Trevor:

The City of Austin Planning and Zoning Department has observed a violation of City Code on your property. An investigation of this complaint was conducted on April 25<sup>th</sup>, 2022 at this site and the following issues need to be resolved:

- 1. Remove all junk/garbage from property**
- 2. Each container shall be watertight and contain all refuse which may accumulate between collections or other disposal**
- 3. Garbage shall be collected or otherwise lawfully disposed of, at least once each week during the year**

The violation of Austin City Code Sections 10.01 Subd 2,3 & 4, 10.14 Subd.1(B) 4 and 10.14 Subd.4-6 were found. These City Code sections read as follows:

**City Code Section 10.01 Subd. 2. Disposal required.** Every person shall, in a sanitary manner, store and dispose of refuse that may accumulate upon property owned or occupied by him or her in accordance with the terms of this section. Garbage shall be collected or otherwise lawfully disposed of, at least once each week during the year.

**City Code Section 10.01 Subd 3. Deposit of garbage or refuse. It is unlawful:**

D. For any person to deposit anywhere within the city any refuse in a manner that it may be carried or deposited by the elements upon any public place or any other premises within the city;

**City Code Section 10.01 Subd 4. Containers**

A. **General requirement.** Every householder, occupant or owner of any residence and any restaurant, industrial establishment or commercial establishment shall provide on the premises one or more containers to receive and contain all refuse which may accumulate between collections or other disposal. All normal accumulations of refuse shall be deposited in such containers, except that leaves, trimmings from shrubs, grass clippings, shavings, excelsior and other rubbish of similar volume and weight may be stored in closed containers not meeting the requirements of Subpar. B. Tree limbs under four inches in diameter in five-foot lengths and tied in bundles not to exceed 60 pounds, bundles of newspapers, cardboard or magazines tied securely not to exceed 60 pounds. Furniture, rugs and carpeting will be accepted by a licensed hauler if notified 24 hours in advance of regular pickup time. The following articles will not be accepted as refuse and must be deposited at a designated

demolition site: stone, sod, earth, concrete, building materials unless placed in covered garbage cans, automobile parts, except tune-up parts, inflammable liquids, tree trunk sections over four inches in diameter. Tires and white goods need not be accepted as refuse by licensed garbage haulers, but shall be disposed of at the depository as designated by the County Board.

B. *Container requirements.* Each container shall be watertight, shall be impervious to insects and rodents and shall not exceed 32 gallons in capacity, garbage containers when full shall not exceed 60 pounds in weight, when waste is collected by licensed haulers by mechanical lifting devices, the use of the container shall not exceed 90 gallons or limited, as defined by the hauler. Containers shall be maintained in good and sanitary condition. Any container not conforming to the requirements of this section or having ragged or sharp edges or any other defect likely to hamper or injure the person collecting the contents shall be promptly replaced after notice by the city. Notwithstanding the foregoing, grass clippings and leaves may be temporarily stored in bags provided by licensed garbage haulers for pick up by licensed garbage haulers or in plastic bags provided by the owner for ultimate disposal at a site designated by the Council.

C. *Placement.*

1. Garbage containers shall be placed in a driveway or open area outside of the garage or where public alley - garbage shall be placed adjacent to the alley, easily accessible for pickup to be made. Other refuse - properly bagged or bundled such as leaves, clippings or brush shall be placed by the curb of the street or by the alley for collection. Containers must be placed properly for pickup prior to 5:30 a.m. on the day of collection to insure service.
2. At the request of the garbage hauler, garbage containers may be placed on boulevard, curbside or other convenience place in front yard for collection, but the containers shall not be permitted to remain on curbside or in front yard for more than 24 consecutive hours.

**City Code Section 10.14, Subd. 1(B):**

**JUNK.** All scrap metal, rags, batteries, paper, trash, rubber tires, debris, waste, wood, and/or construction materials not used in connection with a building or which is carried as inventory in an on-going construction business at a lawful place of business, dismantled vehicles, machinery and appliances or parts thereof and parts of vehicles, glass, tinware, plastic, aluminum and/or steel cans, old or discarded household goods, household furnishings or furniture, hardware or appliances. Neatly stacked firewood located so as to comply with the setback requirements as set forth in Chapter 11 and in accordance with side yard or rear yard setback requirements shall not be considered junk.

**City Code Section 10.14, Subd. 4. *Notice and abatement.***

B. ***Public nuisances affecting health***

5. Accumulations of manure, refuse, junk or other debris;

D. ***Public nuisances affecting peace and safety.***

16. 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 accumulation;

**City Code Section 10.14, Subd. 4(E-G)**

**NOTICE AND ABATEMENT.**

E. Whenever a public officer or other person charged with enforcement determines that a public nuisance is being maintained or exists on premises in the City, the City enforcement officer shall notify in writing the owner or occupant of the premises of such fact and order that such nuisance be terminated and abated.

F. The notice shall be served in person or by certified or registered mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding ten (10) days, within which the nuisance is to be abated.

G. If an emergency exists that presents an immediate danger to citizens affecting their safety, the officer shall require immediate abatement of such nuisance. If the notice is not complied with within the time specified, the enforcing officer shall report that fact forthwith to the Council and may take such other appropriate action as may be necessary. The Council may, after notice to the owner or occupant, provide for the abating of the nuisance by the City.

**City Code Section 10.14, Subd. 5:**

**RECOVERY OF COST.** The owner of the premises on which a nuisance has been abated by the City 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 Recorder shall prepare a bill for the cost and mail it to the owner. There upon, the amount shall be immediately due and payable at the Office of the City Recorder. Ownership shall be presumed to be the owner as shown on the records of the County Treasurer unless the City Recorder has reason to know that such information is not accurate, in which event, notice shall be given to such other person as the City Recorder has reason to believe is, in fact, the true owner of said premises.

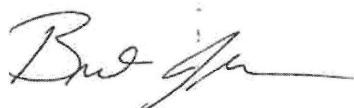
**City Code Section 10.14, Subd. 6:**

**ASSESSMENT.** If the cost of abating said nuisance is not paid in full to the City Recorder before September 1, next, then on or before September 1, next, following the abatement of the nuisance, the City Recorder shall list the total unpaid charges along with other such charges, as well as other charges for current services to be assessed under Minnesota Statutes 429.101 against each separate lot or parcel to which 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.

Please resolve the City Code violations within **10 days** of the date of this letter, or the matter will be referred to the Austin City Council for corrective action. Council generally meets the first and third Mondays of every month. You will be fined a minimum of \$100, the amount varies depending on the type of violations.

Your cooperation with this matter will be greatly appreciated, and if you have any questions, please call me at my office at (507)437-9950.

Sincerely,



Brent Johnson  
Zoning Inspector

CC: Selma Kosut



June 15, 2022  
10:39 AM

1802 3rd ST NE

City of Austin  
Zoning Department



500 Fourth Avenue N.E.  
Austin, Minnesota 55912-3773  
Phone: 507-437-9950  
Fax: 507-437-7101  
[www.ci.austin.mn.us](http://www.ci.austin.mn.us)

## Memorandum

**To:** Mayor and City Council

**Cc:** Kevin Hoffman & Lydia Gross  
701 10<sup>th</sup> Ave SE, Austin, MN 55912

**From:** Holly Wallace, Planning & Zoning Administrator

**Re:** Illegal Storage of Vehicles  
At 701 10<sup>th</sup> Ave SE, Hoffman/Gross Property

**Date:** June 17, 2022

---

May I ask the City Council to approve granting the Planning & Zoning Department the power to contract for the removal of the vehicles at 701 10<sup>th</sup> Ave SE. The property owner has been notified of this violation to the City Code Sections 10.14 Subd.4-6 and 10.33 Subd.1(G) & 2, but has failed to resolve this issue. (See Attached)

Therefore, I am requesting the Mayor and City Council to approve empowering the Planning & Zoning Department to act on the removal of these vehicles. Such action is permitted by the City Code Section 10.14.

Thank You

**City of Austin  
Zoning Department**



**500 Fourth Avenue N.E.  
Austin, Minnesota 55912-3773  
Phone: 507-437-9950  
Fax: 507-437-7101  
www.ci.austin.mn.us**

May 19<sup>th</sup>, 2022

Kevin Hoffman & Lydia Gross  
701 10<sup>th</sup> Ave SE  
Austin, MN 55912

RE: Zoning Violations at 701 10<sup>th</sup> Ave SE, Austin, MN 55912

Dear Kevin & Lydia:

The City of Austin Planning and Zoning Department has observed a violation of City Code on your property. An investigation of this complaint was conducted on May 19<sup>th</sup>, 2022 at this site and the following issues need to be resolved:

**A. Provide current registration for all vehicles, and must be operable. Remove from property or store in an enclosed structure**

The violation of Austin City Code Sections 10.14 Subd.4-6 and 10.33 were found. These City Code sections read as follows:

**City Code Section 10.33 Subd.F**

**TEMPORARY STORAGE.** Temporary storage of an unoccupied recreational travel trailer, vehicles, boats and trailers and the like will be permitted for a seven-month period of time of a given calendar year and within the limitations set forth in this section of side or rear yards of a private residence providing it meets zoning setback requirements.

**City Code Section 10.33 Subd. 1 (G)**

Operable equipment for transportation of people, goods or material and equipment ordinarily used for recreational purposes. Including shall be, by way of example and not limitation, automobiles, trucks, pick-up trucks, trailers, marine crafts, snowmobiles, all terrain vehicles, motor homes, pick-up campers, buses, and camping trailers.

**City Code Section 10.33 Subd. 2. *Off-street outside parking within residential districts.***

A. Vehicle outside parking shall be accessory to the permitted primary use of the property, and vehicles parked on a property must be owned by a licensed resident of the property except as follows:

B. The number of vehicles permitted for outside parking in rear yard and side yard areas shall be limited as follows:

1. Two currently registered passenger vehicles registered to the licensed owner/occupant of the residence may be parked in the rear or side yard areas.
2. In addition to currently registered passenger vehicles, two recreational vehicles may be temporarily stored in the rear yard. If a recreational vehicle is of a type which is required to be registered, it must be currently registered.

C. Outside parking of vehicles shall not be permitted in any portion of the front yard unless the vehicle is parked on a driveway or on a hard-surfaced parking area directly adjacent to the side of the driveway and vehicles are currently registered. The square footage of the front yard which is devoted to green space shall always be as required by the applicable provisions of the City of Austin Zoning Ordinance.

**City Code Section 10.14, Subd. 4(E-G)**

**NOTICE AND ABATEMENT.**

E. Whenever a public officer or other person charged with enforcement determines that a public nuisance is being maintained or exists on premises in the City, the City enforcement officer shall notify in writing the owner or occupant of the premises of such fact and order that such nuisance be terminated and abated.

F. The notice shall be served in person or by certified or registered mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding ten (10) days, within which the nuisance is to be abated.

G. If an emergency exists that presents an immediate danger to citizens affecting their safety, the officer shall require immediate abatement of such nuisance. If the notice is not complied with within the time specified, the enforcing officer shall report that fact forthwith to the Council and may take such other appropriate action as may be necessary. The Council may, after notice to the owner or occupant, provide for the abating of the nuisance by the City.

**City Code Section 10.14, Subd. 5:**

**RECOVERY OF COST.** The owner of the premises on which a nuisance has been abated by the City 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 Recorder shall prepare a bill for the cost and mail it to the owner. There upon, the amount shall be immediately due and payable at the Office of the City Recorder. Ownership shall be presumed to be the owner as shown on the records of the County Treasurer unless the City Recorder has reason to know that such information is not accurate, in which event, notice shall be given to such other person as the City Recorder has reason to believe is, in fact, the true owner of said premises.

**City Code Section 10.14, Subd. 6:**

**ASSESSMENT.** If the cost of abating said nuisance is not paid in full to the City Recorder before September 1, next, then on or before September 1, next, following the abatement of the nuisance, the City Recorder shall list the total unpaid charges along with other such charges, as well as other charges for current services to be assessed under Minnesota Statutes 429.101 against each separate lot or parcel to which 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.

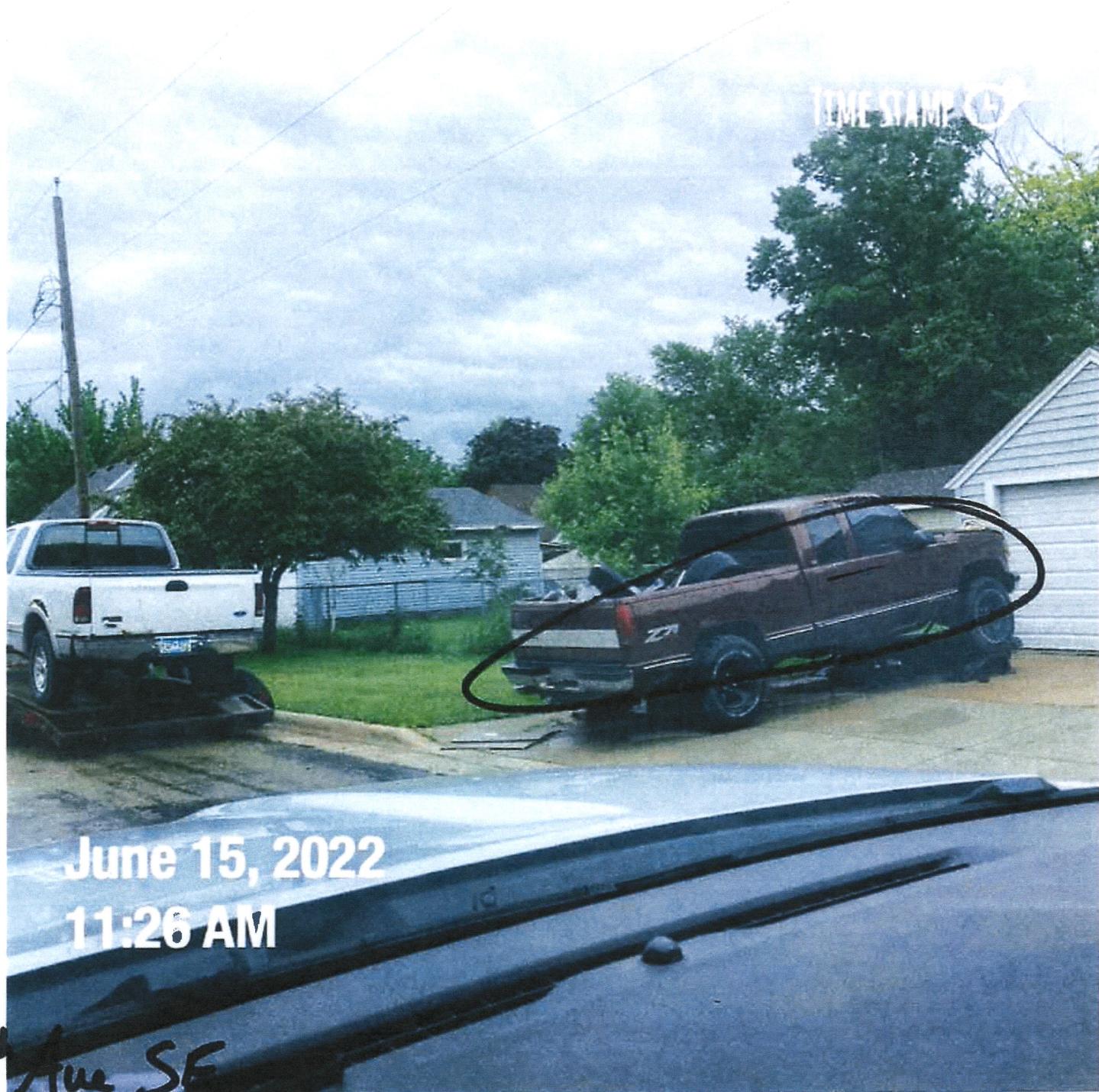
Please resolve the City Code violations within **10 days** of the date of this letter, or the matter will be referred to the Austin City Council for corrective action. Council generally meets the first and third Mondays of every month. You will be fined a minimum of \$100, the amount varies depending on the type of violations.

Your cooperation with this matter will be greatly appreciated, and if you have any questions, please call me at my office at (507)437-9950.

Sincerely,



Brent Johnson  
Zoning Inspector



701 10<sup>th</sup> Ave SE