



CITY COUNCIL WORK SESSION AGENDA

AFTON CITY COUNCIL CHAMBERS
3033 St. Croix Trail South (See Note Below)

Wednesday, June 3, 2020
At 5:00 p.m.

Note: Due to the Covid-19 Virus and the Governor's Executive Order, the June 3, 2020 City Council work session will be held remotely using the Zoom video conference application.

To Join the Zoom Meeting:

The Link is: <https://us02web.zoom.us/j/81757734217>

To Dial In, the call-in number is +1 312 626 6799
The meeting ID is 817 5773 4217

One tap mobile
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- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF AGENDA – June 3, 2020 Council Work Session**
- 4. CITY COUNCIL BUSINESS**
 - A. Regulations Regarding the Discharge of Firearms**
 - B. City Administrator Updates**
- 5. Adjourn**

A quorum of one or more City commissions or committees may be present to receive information during this meeting

<p>City of Afton 3033 St. Croix Trl, P.O. Box 219 Afton, MN 55001</p>
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Meeting Date June 3, 2020

Council Memo

To: Mayor Palmquist and City Council Members

From: Ron Moorse, City Administrator

Date: May 27, 2020

Re: Regulations Regarding the Discharge of Firearms.

In considering regulations regarding the discharge of firearms, the challenge is to find a balance between Afton's history of limited firearms regulations vs. the impacts on the quality of life of residents adjacent to a property on which firearms are being discharged for extended periods of time multiple times per week. Afton's limited firearms regulations are designed to facilitate hunting and hunting-related activities such as sighting-in rifles and occasional clay pigeon shooting. The relatively new firearms discharge ordinance (see attached) added necessary additional regulations regarding distance from houses and shooting across property lines. However, it does not address the noise and safety concerns related to the discharge of firearms on a property for extended periods multiple times per week. There are a number of potential options to consider in relation to addressing these concerns. The options are outlined below.

Options for Addressing Excessive Firearms Discharge Concerns

Clarify the Current Prohibition of Gun Ranges

The zoning code specifically prohibits gun clubs and gun ranges in all zoning districts, for the purpose of avoiding the noise impacts of gun ranges. However, there is not a definition of gun range in the code. One option is to add a definition of gun range that includes commercial gun ranges, but also includes the use of any property as a gun range. The prohibition of gun ranges could include specific and limited exceptions for sighting-in rifles prior to a hunting season, for occasional clay pigeon shooting and for other minor, relatively low-impact activities.

Noise Ordinance

The attached noise ordinance (attached to the nuisance ordinance) includes restrictions on noise levels, and requires testing procedures to determine noise exceedances. The noise ordinance is more focused on noise generated by an on-going use rather than temporary exceedances. For example, the two noise levels defined in the ordinances are L10, which relates to noise exceeding the allowed levels 10% of the time for a one hour period, and L50, noise exceeding allowed levels 50% of the time for a one hour period. Noise testing would need to be done to obtain evidence of an exceedance. Also, the noise ordinance does not include allowed noise levels for the Ag zone.

The noise ordinance does include a definition of noise pollution which fits the situation of the discharge of firearms on a property for extended periods multiple times per week. Noise pollution means the presence of any noise or combination of noises in such quantity, at such levels, of such nature and duration, or under such conditions as could potentially be injurious to human health, safety, or welfare; or to animal life; **or could interfere unreasonably with the enjoyment of life or property.**

Firearms Discharge Ordinance

An element of a preliminary firearms discharge ordinance that was proposed early in the ordinance update process was a limitation on the number of rounds that could be discharged on a property over a one week period. The maximum number of rounds was proposed to be between 20 and 50. It was also proposed that, with the exception of hunting, firearms not be discharged on a parcel, or two or more parcels of land under common ownership, on more than one day

per calendar week. A limit on the number of rounds and days per week would prohibit the ability to discharge a large number of rounds multiple times during a week. As indicated above, a specific and limited exception for an activity such as occasional clay pigeon shooting could be included in the ordinance.

Nuisance Ordinance

The attached nuisance ordinance is very narrow and does not currently address activities such as noise and firearms discharge. The nuisance ordinance could be expanded to include impacts from activities such as the discharge of firearms on a property for extended periods multiple times per week. While the standards for determining a nuisance could be less technical than those in the noise ordinance, standards would need to be developed. The nuisance ordinance uses the following language in relation to nuisance impacts: **“detrimental to or shall endanger the public health, safety, comfort or general welfare.”** This language could be supplemented with the language from the noise pollution definition: **“or could interfere unreasonably with the enjoyment of life or property.”** A more specific standard or example could be the exceedance of a maximum number of rounds per week, as set out in the firearms ordinance paragraph above. Again, the language could include a specific limited exception for an activity such as clay pigeon shooting.

ORDINANCE 01-2019

CITY OF AFTON

WASHINGTON COUNTY, MINNESOTA

AN ORDINANCE AMENDING SECTION 14-1 OF THE CITY CODE RELATED TO THE USE AND DISCHARGE OF WEAPONS

THE CITY COUNCIL OF THE CITY OF AFTON, MINNESOTA HEREBY ORDAINS:

The following sections of the Afton Code of Ordinances shall be amended by adding the **bold and underlined** language and deleting the ~~strike-through~~ language.

Sec. 14-1. Use, discharge of weapons **firearms**.

- (a) **NOTHING IN THIS SECTION SHALL REGULATE, CONTROL OR PREEMPT THE USE OF FIREARMS FOR SELF DEFENSE WHICH SHALL BE SOLELY REGULATED AND CONTROLLED BY APPLICABLE MN STATE STATUTES (609.06 and 609.65)**
- (b) **Firearm definition – A firearm is defined as any gun from which any projectile is discharged or propelled by means of an explosion, excluding devices used exclusively for the firing of stud cartridges, explosive rivets, or similar industrial apparatus, instruments, or equipment used by construction personnel, licensed physicians or veterinarians in the course or scope of their professions.**
- (c) Within the city, it shall be unlawful for any person to discharge out of doors upon the land of another, including all land owned by the City, any firearm, ~~such firearm to include rifle, shotgun, pistol, or device capable of propelling metal pellets by air, spring, CO2, or other means,~~ without having, in his possession, written permission from the owner or tenant of such land to discharge such firearm thereon, **which must include the full name, address, phone number, and signature of the landowner or lessee as well as the full name of the person given permission to hunt or shoot.**
- (d) **It is unlawful for any person to discharge any firearm in any place or manner so as to endanger any person or property.**
- (e) **It is unlawful for any person to discharge a firearm in a city park, on any school property, or in any property located in an area zoned commercial or industrial with the exception of police officers acting in the scope of their lawful authority.**
- (f) **It is unlawful to discharge a firearm across or within the right of way of any public road or highway.**
- (g) **Firearms may not be discharged:**
 - 1. **Except by the landowner and his/her immediate family in residence on the property or in the presence of the landowner or lessee of the land, or with the written permission of the landowner or lessee of the land. The person authorized to hunt/shoot must have in their possession the written permission which must include the full name, address, phone number, and signature of the landowner or lessee as well as the full name of the person given permission to hunt or shoot.**
 - 2. **Within 500 feet of any residence or accessory building on a parcel under separate ownership from the parcel on which the firearm is discharged, unless the person has written permission from the land owner as required in paragraph (g) 1 above.**

ORDINANCE 01-2019

3. Before 0900 hours or after one-half hour before sunset, except when hunting game or non-game animals in compliance with the requirements of Minnesota Hunting Restrictions and Requirements (MN State Statute 97B)
- (h) No firearm shall be discharged in a manner reasonably expected to cause a projectile to cross the boundary of a parcel not under common ownership with the parcel from which the projectile is fired, unless the person has written permission from the land owner as required in paragraph (g) 1 above.
- (i) It is unlawful to discharge a firearm while under the influence of a controlled substance or under the influence of alcohol.
- (j) Individuals discharging firearms must be adults or must be under the supervision of a responsible adult, with the exception of juveniles 16 and over during the hunting season who meet the legal requirements to hunt according to Minnesota's hunting regulations. Nothing in this paragraph shall prohibit juveniles from hunting in compliance with the requirements of Minnesota Hunting Restrictions and Requirements (MN State Statute 97B)

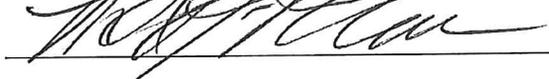
ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 21ST DAY OF MAY, 2019.

SIGNED:



Bill Palmquist, Mayor

ATTEST:



Ronald J. Moore, City Administrator

Motion by: Wroblewski
Second by: Perkins
Perkins: Aye
Wroblewski: Aye
Ross: Nay
Nelson: Nay
Palmquist: Aye

AFTON CODE

in the opinion of the Planning Commission, constitutes a hazard to the public safety, shall discontinue operations within 90 days following notification by the Zoning Administrator.

Sec. 12-204. Explosives.¹⁸³

No activities involving the commercial storage, use or manufacture of materials or products that could decompose by detonation shall be permitted except as are specifically permitted by the Council. Such materials shall include but not be confined to all primary explosives such as lead azide and mercury fulminate, all high explosives and boosters such as TNT, tetryl and nitrates, propellants and components thereof such as nitrocellulose, black powder and nitroglycerine, blasting explosives such as dynamite and nuclear fuel and reactor elements such as uranium 235 and plutonium.

Sec. 12-205. Environmental pollution.¹⁸⁴

- A. All uses, buildings and structures shall conform to the regulations of the state pollution control agency relating to air, water, noise and solid wastes.
- B. No use shall be permitted that will cause or result in the pollution of any tributary of the St. Croix River, any lake, stream, ground water or other body of water in the City.
- C. Chemical insecticides or herbicides shall be stored, handled, utilized and disposed of according to the standards set forth by the state pollution control agency.

Sec. 12-206. Environmental nuisances.¹⁸⁵

No odors, vibration, noise, smoke, air pollution, liquid or solid wastes, heat, glare, dust or other such sensory irritations or health hazards shall be permitted in any zoning district in excess of the minimum standards as set forth in this section. Any violation of such standards is hereby declared a nuisance. The minimum standards shall be as follows:

- A. *Odors.* Any use shall be so operated as to prevent the emission of odorous or solid matter of such quality or quantity as to be reasonably objectionable at any point beyond the lot line of the site on which the use is located, except as regulated by sections 12-139 and 12-140 regulating agricultural operations.
- B. *Vibrations.* The following vibrations are prohibited:
 - 1. Any vibration discernible beyond the property line to the human sense of feeling for three minutes or more duration in any one hour; and
 - 2. Any vibration resulting in any combination of amplitudes and frequencies beyond the safe range of the most current standards of the United States Bureau of Mines on any structure.
- C. *Toxic and noxious matter.* Any use shall be so operated as not to discharge across the boundaries of the lot or through percolation into the atmosphere or the subsoil beyond the boundaries of the lot wherein such use is located toxic or noxious matter in such concentration as to be detrimental to or endanger the public health, safety, comfort or welfare, or cause injury or damage to property or business.
- D. *Air pollution.* Any use shall be so operated as to control emission of smoke or particulate matter to the degree that it is not detrimental to or shall endanger the public health, safety, comfort or general welfare.
- E. *Animals.* Any building in which domestic farm animals are kept shall be a minimum distance of 100 feet from all lot lines.¹⁸⁶

Notwithstanding anything contained herein to the contrary, the minimum standards of the pollution control agency for noise, air and water pollution and glare, these shall be the minimum standards for the purposes of this section.¹⁸⁷

¹⁸³ Cross reference(s)--Environment, Ch. 10.; Code 1982, § 301.721

¹⁸⁴ Cross reference(s)--Environment, Ch. 10; Code 1982, § 301.722

¹⁸⁵ Cross reference(s)--Environment, Ch. 10.

¹⁸⁶ See Section 12-187(n)(1).

¹⁸⁷ Code 1982, § 301.723

LAND USE

Sec. 12-207. Miscellaneous nuisances.¹⁸⁸

- A. It shall be a nuisance for any person to store or keep any vehicle of a type requiring a license to operate on the public highway, but without a current license attached thereto, whether such vehicle is dismantled or not, outside of an enclosed building in any zoning district.
- B. Creating or maintaining a junkyard or vehicle dismantling yard shall be a nuisance and shall be prohibited.
- C. The following are declared to be nuisances endangering public health:
 1. Causing or suffering the effluent from any cesspool, septic tank, drainfield or human sewage disposal system to discharge upon the surface of the ground, or dumping the contents thereof at any place except as authorized by the state pollution control agency.
 2. Causing or suffering the pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances.
 3. Causing or suffering carcasses of animals to not be buried or destroyed or otherwise disposed of within 24 hours after death.
- D. The following are declared to be nuisances affecting the public peace and safety:
 1. The placing or throwing on any street, alley, road, highway, sidewalk or other public property of any glass, tacks, nails, bottles or other nuisances that may injure any person or animal or may cause damage to any pneumatic tire when passing over the same.
 2. The ownership, possession or control of any unused refrigerator or other container, with doors that fasten automatically when closed, of sufficient size to retain any person and that is exposed and accessible to the public without having the doors, lids, hinges or latches removed or having locks to prevent access by the public.

Sec. 12-208. Noise.¹⁸⁹

- A. *Definitions.* Except as provided in this section, words or phrases used in this section and defined in the rules of the state pollution control agency noise section, Mn Rules, § 7030, shall have the meanings given in those rules.
 1. *A-weighted* means a specific weighting of the sound pressure level for the purpose of determining the human response to sound. The specific weighting characteristics and tolerances are those given in American National Standards Institute S1.4-1983, section 5.1.
 2. *Cut-out or bypass* means a mechanism which varies the exhaust system gas flow so as to discharge the exhaust gas and acoustic energy to the atmosphere without passing through the entire length of the system including all exhaust system sound attenuation components.
 3. *dB(A)* means a unit of sound level expressed in decibels (dB) and A-weighted.
 4. *Exhaust system* means a combination of components which provides an enclosed flow of exhaust gas from engine parts to the atmosphere.
 5. *Holiday* means any day fixed by the United States or by state law for suspension of business in whole or in part.
 6. *L10* means the sound level, expressed in dB(A) which is exceeded ten percent of the time for a one-hour period, as measured by test procedures approved by the director of the MPCA.
 7. *L50* means the sound level, expressed in dB(A) which is exceeded 50 percent of the time for a one-hour period, as measured by test procedures approved by the director of the MPCA.
 8. *MPCA* means the state pollution control agency.
 9. *Noise* means any sound not occurring in the natural environment, including but not limited to, sounds emanating from airways, roadways, waterways, industrial, commercial, and residential sources.
 10. *Noise control officer* means the City Zoning Administrator or other person appointed by the City Council.

¹⁸⁸ Cross reference(s)--Environment, Ch. 10; Code 1982, § 301.724

¹⁸⁹ Cross reference(s)--Environment, Ch. 10.

AFTON CODE

11. *Noise pollution* means the presence of any noise or combination of noises in such quantity, at such levels, of such nature and duration, or under such conditions as could potentially be injurious to human health, safety, or welfare; or to animal life; or could interfere unreasonably with the enjoyment of life or property.
12. *Person* means any individual, firm, partnership, corporation, trustee, association, the state and its agencies and subdivision, or any body of persons whether incorporated or not. With respect to acts prohibited or required herein, person shall include employees and licensees.

B. *General noise standard.*

1. *Incorporation by reference.* The MPCA Noise Rule, Mn Rules, §§ 7030.0010 through 7030.0080, and all amendments thereof and supplements thereto are hereby referred to, adopted, incorporated by reference, and made a part of this article. A current copy shall be available for public inspection through the City Clerk's office.
2. *Maximum noise levels by receiving land use districts.* No person shall operate or cause or permit to be operated any source of noise in such a manner as to create a noise level outdoors exceeding the dB limit set in Table 1 for the receiving land use district specified.

Table 1. Sound Levels by Receiving Land Use Districts

Land Use Districts	Day (7:00 a.m. - 10:00 p.m.)		Night (10:00 p.m. - 7:00 a.m.)	
	L10	L50	L10	L50
Residential (RR, VHS-R)	65	60	55	50
Commercial (VHS-C)	70	65	70	65
Industrial	80	75	80	75

C. *Exemptions:*

1. The levels prescribed in the section above do not apply to noise originating on public streets and alleys but such noise shall be subject to other ordinances.
2. The levels prescribed above do not apply to farm machinery being operated by a person actively engaged in productive agricultural operations provided the machinery is not stationary.

D. *Noises prohibited.*

1. *Horns, audible signaling devices, etc.* No person shall sound any signaling device on any vehicle except as a warning of danger.¹⁹⁰
2. *Engine exhausts.* No person shall discharge the exhaust or permit the discharge of the exhaust of any steam engine, stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle, snowmobile or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws, regulations, and this article. No exhaust system on any engine shall be modified, altered, or repaired in any manner, including the use of a muffler cut-out or bypass, that shall amplify or otherwise increase noise above that emitted by the device as originally equipped.
3. *Radios, phonographs, paging systems, etc.* No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for production or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence of violation of this section.
4. *Social gatherings.* No person shall participate in any party or other gathering of people giving rise to noise which disturbs the peace, quiet or repose of the occupants of adjoining or other property. When a

¹⁹⁰ M.S.A. § 169.68

LAND USE

police officer determines that a gathering is creating such noise disturbance, the officer shall order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall cooperate with police officers and shall make every reasonable effort to see that the disturbance is abated.

5. *Loudspeakers, amplifiers for advertising, etc.* No person shall operate or permit the use or operation of any loudspeaker, sound amplifier, or other device for the production or reproduction of sound on a street or other public place for the purpose of commercial advertising or attracting the attention of the public for any purpose whatsoever.
6. *Schools, churches, etc.* No person shall create any excessive noise on a street, alley or public grounds adjacent to any school, institution of learning, church or other place of worship.

E. *Hourly restriction on certain operations.*

1. *Domestic power equipment.* No person shall operate a garden or lawn tractor, power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, power device for bug eradication, drill, or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. Snow removal equipment is exempt from this provision.
2. *Refuse hauling.* No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:00 a.m. and 6:00 p.m., Monday through Saturday.
3. *Construction activities.* No person shall engage in or permit construction activities involving the use of any electric, diesel, or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 10:00 p.m.

F. *Exception for emergency work.* Noise created exclusively in the performance of emergency work to preserve the public health, safety or welfare, or in the performance of emergency work necessary to restore public service or eliminate a public hazard shall be exempt from the provisions of this article for a period not to exceed 48 hours after the work is commenced. Persons responsible for such work shall inform the noise control officer of the need to initiate such work or, if the work is commenced during non-business hours of the City, at the beginning of business hours of the first business day thereafter. Any person responsible for such emergency work shall take all reasonable actions to minimize the amount of noise and the duration thereof.

G. *Powers and duties of noise control officer.*

1. *Administering officer.* The noise control program established by this chapter shall be administered by the noise control officer.
2. *Testing procedures.* The noise control officer shall adopt guidelines establishing the test procedures and instrumentation used in enforcing the provisions of this section. A copy of such guidelines shall be kept in the office of the City Clerk and shall be available to the public for reference during business hours.
3. *Investigation and inspection.* The noise control officer, with the assistance of other professional agencies or persons as may be necessary, shall conduct all research monitoring and other studies related to sound as are necessary in order to enforce this article and shall make all investigations and inspections in accordance with law as required in applying the provisions of this article.
4. *Noise impact statements.* The noise control officer may require any person applying to the City for a change in zoning classification, permit, license for any structure, operation, process, installation, or alteration or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the officer. Each such statement shall be reviewed to ascertain whether the granting of such change in zoning classification, permit, or license would result in the violation of any provision of this article. Reviews of noise impact statements shall be made by the zoning committee, Planning Commission if appropriate, and recommendations shall be made to the City Council.
5. *Other powers and duties.* The noise control officer shall exercise such other powers and perform such other duties as are reasonable and necessary to enforce the provisions of this section.

H. *Enforcement and penalties.*

1. When the noise control officer, after appropriate testing has been done, determines that a noise exceeds the maximum sound level permitted under Subsection (B) of this section, the noise control officer shall give written notice of the violation to the owner or occupant of the premises where the noise originates,

AFTON CODE

and order such person to correct or remove each specified violation within such reasonable time as is prescribed in the notice.

2. In all other cases, the noise control officer or the City's law enforcement officer may demand immediate termination of the excessive noise. Failure to adhere to such demand would subject the violator to appropriate criminal enforcement procedure.
3. Section 1-13 shall apply to a violation of this section.¹⁹¹

Sec. 12-209. Visual standards.¹⁹²

- A. It is hereby affirmed as essential public policy that the appearance of this city is a proper matter for public concern and that all open spaces, buildings, signs, plantings, surfaces and structures which may be seen from the public ways and water bodies are subject to the provisions of this article.
- B. The comprehensive plan as adopted clearly states that scenic views, tree cover, slopes and other features of the natural environment are a city concern, therefore, a conditional or Conditional Use Permit for any new use or development may include conditions affecting building setbacks, restrictions on removal of trees and other vegetation, placement and type of driveway access and other conditions on appearance from any public street.

Sec. 12-210. Signs.¹⁹³

- A. *Purpose.* The purpose of this section is to protect and retain the natural scenic beauty of the roadsides throughout the City. By the construction of public roads, the public has created views to which the public retains a right-of-way view, and it is the intent of these standards to prevent the taking of that right.
- B. *Definitions.* As used in this section, the following words and phrases shall have the meaning indicated:¹⁹⁴
 1. *Sign* means a notice that directs attention to a product, place, activity, person, institution, organization or business for public view.
 2. *Sign, advertising,* means a sign that directs attention to a business or profession or to a commodity, service or entertainment.
 3. *Sign, area,* means the entire area within a continuous perimeter enclosing the extreme limits of such sign. However, such perimeter shall not include any structural elements lying outside of such sign and not forming an integral part or border of the sign.
 4. *Sign, banner,* means any sign made of flexible material hung up on a crossbar or between two points of any permanent structure or poles advertising an event such as a grand opening, special sale or similar situation.
 5. *Sign, billboard,* means an outdoor panel for the display of large advertisements in public places, such as alongside highways, roads and streets.
 6. *Sign, business,* means a sign that directs attention to a business or profession or to the commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is attached.
 7. *Sign, display,* means any commodity that is sold or produced by the occupant which is exhibited outside the premises for the purpose of bringing to the attention of others, those items currently for sale within the premises.
 8. *Sign, flashing,* means an illuminated sign which has a light source not constant in intensity or color at all times while such sign is in use.
 9. *Sign, ground,* means a sign which is supported by one or more uprights, poles or braces in or upon the ground.
 10. *Sign, illuminated,* means a sign which is lighted with an artificial light source, that meets government mandated regulations and is appropriate to the application of a building's historic period.
 11. *Sign, motion,* means a sign that has moving parts.

¹⁹¹ Code 1982, § 301.725

¹⁹² Code 1982, § 301.726

¹⁹³ **Cross reference(s)**--Street signs, § 12-1430; signs in heritage preservation areas, § 12-1717; Ord 01-2014, 5/20/2014

¹⁹⁴ Ord 01-2014, 5/20/2014

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Meeting Date June 3, 2020

Council Memo

To: Mayor Palmquist and City Council Members

From: Ron Moorse, City Administrator

Date: May 28, 2020

Re: City Administrator Updates

There are no updates at this time. This item was included on the agenda in case there are updates that need to be provided to the Council at the work session.