

NUISANCES

Chapter 42

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*State law reference—Authority to define, prevent and abate nuisances, Minn. Stats. § 412.221, subd. 23.

Sec. 42-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *Public nuisance.* A person or property owner that does any of the following is guilty of maintaining a public nuisance:

- (1) Maintaining or permitting a condition which unreasonably annoys, injures, or endangers the safety, health, comfort, or repose of any considerable number of persons;
- (2) Unlawfully interfere with, obstruct, or tend to obstruct or render dangerous for use or passage, a body of water or a public park, public right-of-way, street, highway, or other public property within this city;
- (3) Depreciate the value of the property of a considerable number of the inhabitants of this city or cause a blighted and undesirable neighborhood; or
- (4) Any other act or omission declared by law, this chapter, or as determined by the City Council to be a public nuisance.

(b) *Prohibited conduct.* No person shall create, commit, or maintain a public nuisance, or let the property to another knowing it is to be used so.

(Code 1987, § 1000.01, Ord. No. 02-2017, 2-5-2017)

Sec. 42-2. Public nuisances—Affecting health.

The following are hereby declared to be public nuisances affecting health:

- (1) Carcasses of animals, birds or fish not buried or destroyed within 24 hours after death;
- (2) The keeping of any animal over six months of age which has not been vaccinated against rabies with an approved vaccine as determined by the official Compendium of Animal Rabies Vaccines published by the Conference of State Public Health Veterinarians and the Center for Disease Control of the Department of Health and Human Services;
- (3) All public exposure of persons having a communicable disease as defined in Minn. Stats. § 144.4172 and any building, conveyance, or place where contagion, infection, filth or other source or cause of communicable disease exists;
- (4) Accumulations of stagnant water, manure, or rubbish which are likely to become breeding places for flies, mosquitoes or vermin;
- (5) Depositing manure, pet feces, human feces, leaves, grass, clippings, solvents, antifreeze, oil, garbage or refuse upon adjacent private property or onto any city street, city sidewalk, public property, storm sewer system, or water resource such as a wetland, pond, or lake; or

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- (6) All other acts, omission of acts, and uses of property deemed by the state, board of health, Hennepin County Human Service and Public Health Department, or the health inspector to be a menace to the health of the inhabitants of this city.

(Code 1987, § 1000.05A; Ord. No. 02-2017, 2-5-2017)

Sec. 42-3. Same—Affecting morals and decency.

The following are hereby declared to be public nuisances affecting public morals and decency:

- (1) All gambling devices, slot machines and punch boards, unless approved as a legal device by the state;
- (2) Betting, bookmaking, and all apparatus used in such occupations;
- (3) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;
- (4) All places where controlled substances, narcotics, or intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purpose of drinking intoxicating liquor or use of controlled substances or narcotics, or where intoxicating liquor, controlled substances, or narcotics are kept for sale or other disposition in violation of law, and all liquor controlled substances, and narcotics and other property used for maintaining such a place;
- (5) Any vehicle used for the transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose;
- (6) The use of any fish house, warming house, or other similar structure for any activity listed in subsections (1) through (4) of this section.

(Code 1987, § 1000.10A)

Sec. 42-4. Same—Affecting peace and safety.

The following are declared to be public nuisances affecting public peace and safety:

- (1) All snow and ice not removed from public sidewalks 12 hours after the snow or other precipitation causing the condition has ceased to fall;
- (2) All limbs or branches of trees not in the right-of-way which are less than 15 feet above the surface of any street and all limbs or branches of trees which are less than eight (8) feet above the surface of a sidewalk, bike path, or trail;
- (3) All shrubs, hedges, bushes, or trees of any height placed within the sight triangle, which obstructs the vision of persons on any street or sidewalk;
- (4) Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this chapter or other applicable law;
- (5) All wires strung less than 15 feet above the surface of the ground, radio aerials, radio towers, television antennas, television towers, or satellite dishes erected, or maintained in an unsafe or dangerous manner;
- (6) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to

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- gather, obstructing traffic and the free uses of the streets or sidewalks;
- (7) All hanging signs, awnings, and other similar structures over streets and sidewalks, so situated so as to endanger public safety or not constructed and maintained as provided by this code;
 - (8) The allowing of rain water, ice, or snow to fall from any building or structure or wastewater cast upon or permitted to flow upon or across any street, sidewalk, or other public property;
 - (9) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, or other materials;
 - (10) Noxious weeds, as that term is defined in Minn. Stat. § 18.77, any excessive or un-controlled growth of other weeds, and un-mowed turf-grass exceeding eight (8) inches in height. Establishment and minimal maintenance of native and naturally-occurring woodland, prairie, wetland, and riparian grasses, wildflowers, and pollinator attractant areas within lots is permissible on unimproved lots in whole or on portions of improved lots, subject to control of noxious and invasive weeds;
 - (11) All abandoned, junked, or unauthorized vehicles as those terms are defined in Minn. Stat. § 168B.011, which are stored in the open on any private property, street, alley, or other public property;
 - (12) All dead or diseased standing trees on improved lots; or those on unimproved lands which present an immediate and direct hazard to life or property; all cut wood that is diseased or found harboring any invasive species. Live trees standing with storm or disease damage or otherwise structurally unsound may be identified as a nuisance requiring assessment and treatment by a certified arborist and/or removal;
 - (13) All accumulated piles of wood, which are not neatly stacked or stacked and secured in a stable manner to avoid collapse;
 - (14) All dangerous, unguarded machinery, including derelict autos, derelict boats, derelict appliances, or other similar equipment, in any public place, or so situated or operated on private property so as to attract the public.
 - (15) Jumping, diving, or fishing from a channel bridge, street bridge, or railroad bridge;
 - (16) All discarded or unused refrigerators, freezers, or other similar object or container sufficiently large to retain any person, exposed in the open on private property or in such condition as to be accessible to the public, without first removing the doors, lids, hinges, or latches, or providing locks to prevent the opening of the object by the public;
 - (17) Causing to be made any fire on any public beach area, park, or other public property, except in fireplaces designated for that purpose;
 - (18) Any well, hole, obstruction, or excavation which is left uncovered or in such other condition as to constitute a hazard to any child or other person being or coming on the premises where it is located, except under such conditions as are specifically provided by this code;
 - (19) Obstruction to the free flow of water in a natural waterway or public street drain, gutter, or ditch with trash, rubbish, vegetation, or other

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materials;

- (20) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal, or damage any tire when passing over such substance;
- (21) All buildings, walls, fences, and other structures which have been damaged by fire, decay, or otherwise, and which are so situated as to endanger the safety of the public;
- (22) All structures or portions of a structure, located in a residential zoning district, if the exterior is not completed in accordance with the city-approved construction plans within 180 days after the date that the city building permit was issued;
- (23) Property that has been disturbed by construction, grading, or other activity and is not seeded, sodded, or otherwise planted with ground cover within 240 days after the date the city building permit was issued, unless the 240 days expires between November 1 and May 15, in which case the ground cover must be established by the following July 15;
- (24) Construction materials, including piles of dirt, sand, sod, and other debris that is not placed in an adequate waste container, permitted to blow around or off the premises, or left in the open on property more than 21-days after being generated, unless such materials are being used at the time in the construction of a building, in which case, such materials must be removed within 60 days following the completion of construction or a certificate of occupancy has been issued, whichever comes first; or;
- (25) Private functions or special events that exceed normal levels of city public services, overwhelm city resources, are outside the realm of municipal permits, exceed the provisions set forth in issued or existing permits, or require special service from city departments and/or mutual-aid agreements;

(Ord. No. 02-2017, 2-5-2017)

Sec. 42-5. Duties of city officers.

- (a) *Enforcement authority.* The Police and Community Development Departments shall enforce the provisions relating to nuisances.
- (b) *Right of entry.* If it is necessary to make an inspection to enforce the code or if the Department staff has reasonable cause to believe that there exists upon a property a condition contrary to or in violation of the code, the Department staff may enter the property at reasonable times to inspect or to perform the duties imposed by the code, provided that if the property is occupied, credentials must be presented to the occupant and entry requested. If the property is unoccupied, the Department staff shall first make a reasonable effort to locate the owner or other person having charge or control of the property and request entry. If entry is refused or the nuisance condition creates an emergency situation of imminent danger to human life or safety, the Department staff shall have recourse to the remedies provided by law to secure entry.

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- (c) *Order to cease.* In the event that Department staff observes a person creating a nuisance, the staff may, after presenting proper identification, order that the person cease creating or maintaining a nuisance.

(Ord. No. 02-2017, 2-5-2017)

Sec. 42-6. Abatement.

- (a) *Authority to Abate.* A person in violation of sections 42-2 and 42-4 shall be deemed to have created a public health hazard, or public nuisance affecting peace and safety in the city, which is subject to abatement by city staff members. All abatement costs incurred including administrative, legal, and engineering fees shall be charged against the property as a special assessment to be assessed and collected in the manner provided in Minn. Stat. § 429.101 as may be amended from time to time or in any alternative manner provided elsewhere in Minnesota Statutes.

- (1) Abatement may include, but shall not be limited to removal, cleaning, extermination, cutting, mowing, grading, covering or filling dangerous unfinished or abandoned excavations, sewer repairs, draining, securing, boarding unoccupied structures, barricading or fencing, removing dangerous portions of structures and demolition of dangerous structures or abandoned buildings.
- (2) Abatement costs shall include, but not limited to the cost of the abatement, the cost of investigation, such as title searches, inspection, and testing, the cost of notification, filing costs, and administrative costs.

- (b) *Service.* When service of an order or notice is required, any one or more of the following methods of service shall be adequate:

- (1) By mail to the property owner, property tenant, or responsible party as identified through property tax records, unless it is a written order which gives days or three (3) less for the completion of any act it requires;

- (2) By posting on the property, if the written order or notice gives three (3) days or less for the completion of any act it requires; or

- (3) If the appropriate party or address cannot be determined after reasonable effort or it is a written order which gives three (3) days or less for the completion of any act it requires, by posting a copy of the order or notice in a conspicuous place on the property. If a mailed order or notice is returned by the United States Postal Service, a good faith effort shall be made to determine the correct address, unless the order or notice orders abatement and that abatement has been completed.

(Code 1987, § 1000.25; Ord. No. 11-2005, 8-7-2005; Ord. No. 08-2007, 8-28-2007; Ord. No. 04-2010, 7-4-11; Ord. No. 03-2015, 11-22-2015; Ord. No. 2-2017, 2-5-2017)

Sec. 42-7. Abatement procedures.

- (1) *Standard abatement.* Except for the abatement of noxious weeds governed by section 42-4 subdivision 10 and except as otherwise provided under subdivisions 2, 3, and 4 below, the following abatement procedures applies to all public nuisances. Whenever the officer who is charged with enforcement determines

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that a public nuisance is being maintained or exists on a property, the officer must give written notification to the property owner, occupant, or other responsible party of that fact and order that the nuisance be terminated and abated. Notice must be served in the manner provided in section 42-6 (b) of this chapter. The written order or notice shall contain the following:

- (a) The location or description of the real estate sufficient for identification of the location of the public nuisance;
- (b) The nature of the public nuisance, with reference to the appropriate code provision;
- (c) The steps to be taken to abate the nuisance and an abatement deadline, of ten (10) calendar days within which the nuisance is to be corrected;
- (d) That if the owner, occupant, or other responsible party does not comply with the notice or order within the time specified, the City may provide for abating the nuisance;
- (e) That the owner, occupant, or other responsible party has the right to appeal the designation of a public nuisance before the City Council, by submitting a request in writing to the City Clerk, within seven (7) calendar days after service of the notice or order; and
- (f) That the City may assess its abatement costs against the property in accordance with this section.

If no timely appeal is submitted and the nuisance is not corrected within the deadline given, the enforcement officer may proceed to abate the nuisance. If a timely appeal is submitted, the matter must be scheduled for a hearing before the City Council. A notice of the hearing must state the date, time, and location of the City Council hearing, must be served in the same manner as the violation notice, and must be given at least ten (10) days before the hearing. After holding the hearing, the City Council may issue an order requiring abatement of the nuisance.

1. *Summary abatement.* The enforcing officer may provide for abating a public nuisance regardless of cost, without following the standard abatement procedures required in paragraph 1 above when:

- (a) There is an immediate threat to the public health or safety;
- (b) There is an immediate threat of serious property damage; or
- (c) A public nuisance has been caused by private parties on public property.

Following a summary abatement, as soon as the costs incurred are known, the enforcement officer shall serve written notice upon the property owner, occupant, or responsible party. The notice shall contain:

- (a) A description of the nuisance;
- (b) The action taken by the City;
- (c) The reasons for summary abatement;
- (d) The costs incurred in abating the nuisance; and

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- (e) A statement that the property owner, occupant, or responsible party may request, by writing to the City Clerk within two (2) business days of the date of the notice, a hearing at which the City Council shall review the actions taken by the enforcement officer.
- 3. *Major abatement.* When the enforcement officer determines that the cost of abating a nuisance will exceed \$5,000 based on a reasonable, good faith estimate, the standard abatement procedure provided in paragraph 1 is altered in the following manner:
 - (a) The abatement notice or order must provide that if the party does not abate the nuisance within ten (10) calendar days, the matter will be referred to the City Council for review and possible action;
 - (b) The abatement notice or order must specify the date, time, and location of the City Council review; and
 - (c) The abatement notice or order shall be sent by First Class U.S. Mail to the property owner, occupant, or responsible party, as identified through property tax records.
- 4. *Noxious weeds abatement.* For a noxious weed violation under section 42-4 (10), the standard abatement procedure provided in paragraph 1 is altered in the following manner:
 - (a) The abatement notice or order shall remain in effect for the remainder of the calendar year; and
 - (b) No further notice or order shall be required for abating a recurrence of the same condition.
- 5. *Cost recovery.* The owner of property on which a nuisance has been abated by the City or a person who has caused a public nuisance on property not owned by that person, is personally liable to the City for the cost of the abatement, including administrative costs. Unpaid charges constitute a special assessment against the property where the abatement occurred on and after the date they were incurred. As soon as the work has been completed and the cost determined, an appropriate official will prepare a bill for the cost and mail it by First Class U.S. Mail to the property owner or other responsible party. The amount shall be immediately due and payable to the City Clerk.
- 6. *Assessment.* If the cost, or any portion of it, has not been paid under subdivision 5 within 30 days after the date of the bill, the City Council may certify the unpaid cost against the property to which the cost is attributable as a special assessment, as provided in Minn. Stats. §429.101. Before certification against the property, reasonable notice of the impending certification and an opportunity to be heard by the City Council must be given to the taxpayer of record. Failure of the taxpayer to receive the notice shall not invalidate the certification. The City Council may certify unpaid costs to the county auditor for collection along with current taxes in the following year or in annual installments not exceeding five (5), with interest as determined by the City Council in each case.

(Ord. No. 2-2017, 2-5-2017)