

## **SECTION 270. ADMINISTRATIVE CITATIONS**

### 270.01 Purpose

The City Council of the City of Tonka Bay hereby recognizes that it is necessary to provide a mechanism for ensuring compliance with the ordinances of the City and to punish violations thereof. Pursuant to the City's authority under Minnesota Statutes, section 412.231, as the same may be amended from time to time, the City Council has determined that it is necessary to designate any violation of the City Code as a penal offense which shall be subject to the terms outlined herein. Such penalties are necessary to ensure the good order of the City, and to protect the health, safety, and general welfare of the City and its residents.

### 270.02 Prohibited acts

A violation of any provision of the City Code is hereby declared to be an administrative penal offense, punishable by an administrative citation and administrative fine in an amount not to exceed \$1,000.00 per offense. In addition to a violation of any provision of the City Code, the following shall be deemed to be administrative penal offenses:

- a. Any violation or failure to comply with the terms and conditions of any City approval, including but not limited to previously approved licenses or permits;
- b. Knowingly making any false statement, including submission of a false document, or a material omission made in connection with an application or procedure provided for in the City Code; and
- c. Assisting in or allowing to occur any violation herein specified.

### 270.03 Continuing violations

Each calendar day that any code violation persists shall constitute a separate and distinct offense for which a separate penalty may be imposed. The city administrator may exercise discretion in imposing an administrative fine for more than one day of a continuing offense.

### 270.04 Application denial; permit revocation

Any ongoing and uncured violation of any of the provisions of the City Code shall constitute sufficient grounds for denial of any application required by the City Code or revocation of a permit which is directly related to the violation.

### 270.05 Abatement of violation

The city attorney may institute any lawful action or proceeding in the name of the City of Tonka Bay to prevent, restrain, remedy or abate any violation of the City Code.

### 270.06 Penalties cumulative

Nothing in this Section shall prevent the City from taking such other actions as are permitted under law, and the penalties provided here shall be cumulative.

### 270.07 Notice of violation

The city administrator, zoning administrator, building inspector, any member of the City's contracted police or fire departments, or any member of city staff to whom such authority is delegated by the city administrator (an "enforcement officer") shall be charged with determining

whether the provisions of the City Code are being met and enforcing the provisions of the City Code with respect to any property or condition within the City. An enforcement officer may enter upon private property to ascertain facts related to such conditions pursuant to a lawfully obtained administrative search warrant. If the enforcement officer has a reasonable belief that an administrative penal offense has occurred, the enforcement officer shall notify the city administrator. The city administrator may deliver, either in person or by United States first class mail, written notice of violation to a person suspected or known to have committed an administrative penal offense and/or to the owner of property upon which an administrative penal offense has been or is being committed. The notice shall identify the administrative penal offense, the location upon which the administrative penal offense occurred or is occurring, and the recommended corrective action. Except in the case of a violation which constitutes an immediate danger to public health, safety, or welfare for which immediate corrective action is required, the notice shall state that the alleged violator has, at the discretion of the city administrator, up to 15 days to correct or abate the administrative penal offense. If the alleged violator and/or owner of property upon which an administrative penal offense is being committed is unable to correct or abate the offense within the prescribed time, that person may request in writing an extension of no more than 30 additional days from the city administrator. Any extension granted by the city administrator, in the exercise of their sole discretion, shall be in writing and shall specifically state the date of expiration. If the administrative penal offense is not corrected or abated as outlined in the notice within the prescribed time or any extension thereto, the city administrator may issue an administrative citation, as provided below.

#### 270.08 Administrative citation

Upon reasonable belief that an administrative penal offense has occurred and has not been corrected or abated as provided in the written notice of violation, the city administrator, or their authorized designee, may issue an administrative citation to the person responsible for the offense by first class mail. The fees for such administrative citation shall be those adopted by the City Council in the City's official fee schedule. The city administrator shall also deliver a copy of the administrative citation to the City Council, and, if the person responsible for the offense is not the property owner, shall deliver a copy of the administrative citation to the owner of property upon which the administrative penal offense has been or is being committed. The administrative citation must state the date, time, and nature of the offense, the name of the official issuing the citation, the amount of the administrative fine, and the manner for paying the fine or appealing the citation.

#### 270.09 Appeals: hearing

- (1) Any person issued an administrative citation under this section shall have the right to appeal such citation by filing a written notice of appeal with the city administrator within 14 days of the date of such citation. Upon receipt of such written notice, the city administrator shall schedule the appeal hearing before the City Council within 30 days from the date of such notice.
- (2) The appeal will be heard by the City Council. At the hearing, the parties will have an opportunity to present testimony and documentary evidence and question witnesses, but strict compliance with Minnesota Rules of Evidence will not be required. The City Council may impose limitations on the scope of evidence to be allowed, as well as time limits which may apply to such appeal hearings, and any other substantive or procedural elements which the City Council deems appropriate.

- (3) The City Council shall issue its findings of fact and conclusions, in writing, within 30 days following the hearing. The City Council, upon finding that an administrative citation was justified, may uphold the citation as issued, or may amend the penalties pursuant to those available in the City's fee schedule. If the City Council finds that the administrative citation was not justified, it may overturn the citation and take any other action it deems reasonably necessary.
- (4) The City may suspend or revoke a City-issued license, permit, or other approval associated with the violation, subject to any applicable procedural requirements contained in the City Code. Suspension or revocation of a license, permit or other approval is authorized regardless of whether additional penalties (such as administrative fines) are imposed for the violation. A hearing on appeal of a citation will meet any hearing requirement for the suspension or revocation of such license, permit or other approval as long as notice of such hearing includes notice that suspension or revocation will also be considered; no additional hearing will be required.
- (5) Failure to attend the hearing constitutes a waiver of the violator's rights to a hearing and an admission of the violation. The City Council may waive this result upon a showing of good cause. Examples of "good cause" are: death or incapacitating illness of the accused; a court order requiring the accused to appear for another hearing at the same time; and lack of proper service of the citation or notice of the hearing. "Good cause" does not include forgetfulness and intentional delay.
- (6) An aggrieved party may obtain judicial review of the decision of the City Council according to any applicable law.

270.10 Recovery of civil penalties

- (1) If a civil penalty is not paid within the time specified in the administrative citation or in the decision on appeal, it shall constitute:
  - a. A lien upon the real property upon which the violation occurred if the property or improvements on the property was the subject of the violation and the property owner was found responsible for that violation; or
  - b. A personal obligation of the violator in all other situations.
- (2) A lien may be assessed against the property and collected in the same manner as taxes.
- (3) A lien may be collected as a special charge, as authorized by Minnesota Statutes, sections 366.011 and 366.012, as well as Minnesota Statutes, section 415.01, subd. 2.
- (4) A personal obligation may be collected by any appropriate legal means.

270.11 Collection of fees

- (1) Except as otherwise prohibited by State Statute, the City Code, or other governing law, no permit or license shall be issued by the City of Tonka Bay unless payment has been received for:

- a. Previous permits issued under City Code;
  - b. Previous licenses issued pursuant to the City Code;
  - c. Delinquent property taxes;
  - d. Delinquent special assessments;
  - e. Penalties;
  - f. Interest; and
  - g. Municipal utility fees.
- (2) Upon receipt of an application, and prior to issuing a permit, the city financial coordinator shall review City records to ensure that there are no outstanding balances. The review shall include:
- a. The subject property and/or any adjacent properties under common ownership; and
  - b. The resident and/or members of the resident's immediate family residing in the same dwelling as the resident.

Section 2. Any prior version of this Ordinance previously adopted by the City Council is hereby repealed in its entirety.