

CHAPTER 11 MISDEMEANORS

SECTION 1130 NUISANCES

(updated 9/11/18)

1130.01 Statement of Purpose

In addition to those acts, things, occupations, uses of property, or offenses set out in other sections of this Code, the City of Tonka Bay has determined that a nuisance is a thing, act, occupation or use of property which:

Subd. 1. Shall annoy, injure or endanger the safety, health, comfort or repose of the public.

Subd. 2. Shall offend public decency.

Subd. 3. Shall unlawfully interfere with, obstruct, or tend to obstruct or render dangerous for passage, a lake, navigable river, bay, stream, canal or basin, or a public park, square, street, alley or highway.

Subd. 4. Shall in any way render the public insecure in life or in use of property.

1130.02 Public Nuisances Affecting Health

The following are hereby declared to be nuisances affecting health:

Subd. 1. All decayed or unwholesome food offered for sale to the public.

Subd. 2. All diseased animals running at large.

Subd. 3. All containers, including but not limited to tires, cans, barrels and buckets filled or partially filled with water. Bona fide rain barrels used to capture and store precipitation for the purpose of eco-friendly irrigation shall not be considered a public nuisance under this subdivision; provided, however, that to qualify for this exemption, a rain barrel must be equipped with insect screening or another mechanism designed to effectively prevent insects from entering.

Subd. 4. Carcasses of animals not buried or destroyed within twenty-four hours after death.

Subd. 5. Accumulations of manure or rubbish.

Subd. 6. Garbage containers which are not fly tight.

Subd. 7. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes or other substances.

Subd. 8. All noxious weeds, as defined in Minnesota Statutes, chapter 18, and other rank growths upon public or private property.

Subd. 9. The emission of dense smoke, gas and soot, dust or cinders, and other noxious and offensive fumes, in such quantities as to render the occupancy of property uncomfortable to a person of ordinary sensibilities.

Subd. 10. All other acts, omissions of acts, occupations and uses of property which are deemed by the health officer of this city to be a menace to the health of the inhabitants of this City, or any considerable number thereof.

1130.03 Public Nuisances Affecting Peace and Safety

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

Subd. 1. All limbs of trees which are less than eight feet above the surface of any public sidewalk or nine feet above the surface of any street.

Subd. 2. All wires that are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles.

Subd. 3. All buildings, walls, and other structures which have been damaged by fire, decay or otherwise to an extent exceeding one-half their original value, and which are so situated as to endanger the safety of the public.

Subd. 4. All explosive, inflammable liquids and other substances stored in any manner or in any amount other than specifically provided for in this code.

Subd. 5. The parking of vehicles on or blocking of any fire alley, public easement or road in the city leading to the shoreline of any navigable body of water so as to interfere with, obstruct or tend to obstruct the passage of any emergency public vehicle to such water.

Subd. 6. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks or public grounds except under such conditions as are provided by ordinance.

Subd. 7. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of streets or sidewalks.

Subd. 8. All dangerous, unguarded machinery, in any public place or so situated or operated on private property as to attract the public.

Subd. 9. The distribution of handbills except as provided by ordinance.

Subd. 10. All other conditions or things which are liable to cause injury by the person or property of anyone.

Subd. 11. Any grass or non-noxious weeds which are allowed to exceed eight inches in height, excluding areas maintained in prairie or other native vegetation, or publicly-owned parks, trails, and nature areas.

1130.04 Abatement

Subd. 1. Procedure. Whenever a designated city official determines that a public nuisance is being maintained or exists on a property in the city, the official shall notify in writing the owner of record or occupant of the property of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the official shall report that fact forthwith to the city council. Thereafter, the city council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the city council, the nuisance be abated by the city.

Subd. 2. Notice. Written notice of the violation; notice of the time, date, place, and subject of any hearing before the city council; and notice of the city council order shall be served by a peace officer or designated official on the owner of record or occupant of the property either in person or by certified or registered mail. If the property is not occupied, the owner of record is unknown, or if the owner of record or occupant refuses to accept notice, notice of the violation shall be served by posting it on the property.

Subd. 3. Emergency procedure; summary enforcement. In cases of emergency, where delay in abatement required to complete the procedure and notice requirements as set forth in subdivisions 1 and 2 of this section will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the city council may order summary enforcement and abatement of the nuisance. To proceed with summary enforcement, the designated official shall determine that a public nuisance exists or is being maintained on property in the city and that delay in abatement will unreasonably endanger public health, safety, or welfare. The designated official shall notify in writing the occupant or owner of the property of the nature of the nuisance, and that public health, safety, or welfare will be unreasonably endangered by a delay in abatement required to complete the procedure set forth in subdivision 1 of this section and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the city council may order summary enforcement and abatement of the nuisance.

Subd. 4. Immediate abatement. Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.

Subd. 5. Judicial remedy. Nothing in this section shall prevent the city from seeking a judicial remedy in lieu of an administrative remedy.

1130.05 Recovery of Cost

Subd. 1. Personal liability. The owner of the property on which a nuisance has been abated by the city, or a person who has caused a public nuisance on the property not owned by that person, shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the city clerk or other city official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the city clerk.

Subd. 2. Assessment. After notice and hearing as provided in Minn. Stat. 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of the streets, or unsound or insect-infected trees, the city clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minn. Stat. 429.101 against each separate lot or parcel to which the charges are attributable. The city council may then spread the charges against the property under that statute and any other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding 10, as the city council may determine in each case.

1130.06 Penalty

Violation of this section is a misdemeanor. The imposition of one penalty for any violation of this section shall not excuse the violation or permit it to continue.