

ORDINANCE NO. 2008-32

AN ORDINANCE AMENDING CITY CODE SECTION
845.045 REGARDING NUISANCE ABATEMENT

The City of Minnetonka Ordains:

Section 1. City code section 845.045 is amended as follows:

845.045. Abatement ~~Procedure~~.

1. Standard A abatement. Except for the abatement of public nuisance vehicles governed by section 845.025 ~~and except as otherwise provided under subdivisions 2, 3, and 4 below~~, the following abatement procedure applies to all public nuisances.

Whenever the officer who is charged with enforcement determines that a public nuisance is being maintained or exists on property, the officer must give written notification to the property owner and occupant or other responsible party of that fact and order that the nuisance be terminated and abated. Notice must be served in person or by certified mail. ~~Failure of the party to receive the certified mail does not invalidate the service of the notice.~~ Notice to the owner will be satisfied by notice to the person listed as the taxpayer on the county's tax records. If the property is not occupied, the owner is unknown, or no other responsible party can be reasonably identified, notice may be served by posting it on the property for a period of at least 72 hours. The notice must state:

a. the property location of the public nuisance;

b. the nature of the public nuisance, with reference to the appropriate code provision;;

c. ~~specify~~ the steps to be taken to abate the nuisance and ~~the a reasonable amount of time, not exceeding ten days,~~ within which the nuisance is to be abated.;

d. ~~The notice must also provide~~ that if the owner, occupant, or other responsible party does not comply with the notice within the time specified, the city ~~council~~ may provide for abating the nuisance ~~by the city.~~

e. that the owner, occupant, or other responsible party has the right to appeal the designation as a public nuisance by submitting a request in writing to the city clerk before the date by which abatement must be completed or within seven calendar days after service of the notice, whichever comes first; and

f that the city may assess its costs against the property in accordance with

The ~~stricken~~ language is deleted; the underlined language is inserted.

this section.

If no timely appeal is submitted and the nuisance is not abated 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. TheA notice of the hearing ~~notice~~ must state the date, time, and location of the city council consideration and give the person the right to be heard hearing, must be served in the same manner as the abatement notice, and ~~The notice of the council hearing~~ must be given at least ten days before the council will consider the matterhearing. ~~If notice is given by posting, at least 30 days must elapse between the day of posting and the hearing.~~ After holding the hearing, the city council may issue an order requiring abatement of the nuisance.

2. Summary abatement. The enforcing officer may provide for abating a public nuisance without following the standard abatement procedure 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;
 - c. a public nuisance has been caused by private parties on public property;
- or
- d. there has been a violation of section 845.010(11).

If the enforcing officer abates the nuisance under this section, the officer must reasonably attempt to notify the owner, occupant, or other responsible party of the intended action and the right to appeal the abatement and any cost recovery at the next regularly scheduled city council meeting.

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 must provide that if the party does not abate the nuisance within the time specified, the matter will be referred to the city council for a hearing, and

b. The abatement notice must specify the date, time, and location of the city council hearing.

4. Vegetation abatement. For a vegetation public nuisance under section 845.030, the standard abatement procedure provided in paragraph 1 is altered in the following manner:

a. The abatement notice may require removal within three days after service of the notice, not including Saturdays, Sundays or holidays. This notice will remain in effect for the remainder of the calendar year; and

b. Two days advance notice posted on the property is required for abating a recurrence of the same condition.

~~35.~~ 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. A property that is the subject of multiple nuisance abatements within any continuous 60-month period may be charged additional administrative fees as follows, except when the city council determines that there are mitigating circumstances to reduce or eliminate the fee:

For the 2nd abatement	\$100
For the 3rd abatement	\$200
For the 4th abatement	\$400
For the 5th and subsequent abatements	\$800

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 to the owner or other responsible party. The amount is immediately due and payable to the city treasurer.

~~46.~~ Assessment. If the cost, or any portion of it, has not been paid under subdivision ~~35~~ within 30 days after the date of the bill, the council may certify the unpaid cost against the property to which the cost is attributable. Before certification against the property, reasonable notice of the impending certification and an opportunity to be heard by the council must be given to the taxpayer of record. Failure of the taxpayer to receive the notice will not invalidate the certification. The council may certify unpaid cost to the county auditor for collection along with current taxes in the following year or in annual installments, not exceeding ten, as the council may determine in each case.

Section 2. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 3. This ordinance is effective 30 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on October 13, 2008.

Janis A. Callison, Mayor

ATTEST:

David E. Maeda, City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction: September 29, 2008

Date of adoption: October 13, 2008

Motion for adoption: Schneider

Seconded by: Wiersum

Voted in favor of: Callison, Ellingson, Hiller, Schneider, Wagner, Wiersum

Voted against:

Abstained:

Absent: Allendorf

Ordinance adopted.

| Date of publication:

CERTIFIED COPY:

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on October 13, 2008.

David E. Maeda, City Clerk