

**ORDINANCE NO. 2009-01**

**AN ORDINANCE AMENDING CITY CODE §§705.015, 840.035, 845.045,  
846.045, 915.029, 915.030, 1105.070, 1115.015, 1200.015, 1200.095, 1205.010  
REGARDING ABATEMENTS AND COLLECTIONS**

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The City of Minnetonka Ordains:

Section 1. City code §705.015 is amended as follows:

705.015. Assessment of Delinquent Charges.

Fees and civil penalties imposed by the city, including late payment penalties, constitute a lien against, and may be assessed against, property that was the subject matter, or related to the subject matter, of the fees and penalties, or property that was the location of an activity, proposed use, delivery of city service, or other circumstances that resulted in the fees and/or penalties. Before certifying such an assessment, the city must send a bill to the taxpayer of record for the fee and/or civil penalty. If the bill, or any part of it, has not been paid within 30 days after the date of the bill, the unpaid cost plus late payment penalties and interest may be certified against the property to which the cost is attributable. The council may establish the appropriate rate of interest, taking into consideration such market conditions as the prime rate of interest generally charged by the major twin cities banks. 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 does not invalidate the certification. After city council approval, the unpaid cost may be certified to the county auditor for collection as a special assessment along with current taxes in the following year or in such annual installments, not exceeding 10, as the council may determine.

Section 2. City code §840.035 is amended as follows:

840.035. Procedure for Removal of Infected Trees and Wood.

1. Whenever the forester or authorized representatives finds with reasonable certainty that the nuisance or infestation described above exists in any tree or wood, they will cause the nuisance or infestation to be abated in accordance with current city council policy, sections 840.030 and 845.045 of this code, ~~Minn. Stat. §18.023~~state law, and Minnesota department of agriculture rules.

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

2. The forester must keep a record of the costs of abatements done under this chapter.

Section 3. City code §845.045, subd. 3 is amended as follows:

3. 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 lien against the premises where the abatement occurred on and after the date they were incurred. 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.

Section 4. City code §846.045, subd. 3 is amended as follows:

3. If the city abates the public health nuisance, the city is entitled to recover all of its actual costs plus an additional 25% of such costs for administrative and legal expense, in addition to any other legal remedy. Unpaid charges constitute a lien against the premises where the abatement occurred on and after the date they were incurred. The city may recover costs by civil action against the site owner or by assessing the costs against the site as a special assessment under city code section 845.045.

Section 5. City code §915.029 is amended as follows:

915.029. Fire Alarm Fees.

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

Fees must be paid by an alarm user to the city for each alarm resulting in a fire response, except one generated by an automatic fire sprinkler system. The fee for each fire alarm is \$250.00. The fire chief may waive the fire alarm fee if in the chief's sole discretion the alarm was caused by a true emergency. A fire alarm fee is a lien against the property which was the subject of the alarm and may be collected in the same manner as a false alarm fee under section 915.030.

Section 6. City code §915.030 is amended as follows:

915.030. False Alarm Fees.

Fees must be paid by the alarm user to the city for each false alarm resulting in police or medical response in excess of two per year. The fee for a police or medical false alarm is \$50.00 for the third false alarm and increases by the sum of \$50.00 for each succeeding false alarm in each year. The city must first attempt to obtain voluntary payment of the fees. If efforts to obtain voluntary payment fail, all payment of penalties may be enforced by civil action. In addition, unpaid fees and late payment penalties are liens against the property which was the subject of the false alarms and may be collected by certifying the amounts against the property ~~where the false alarm occurred,~~ in the same manner as the collection of delinquent utility fees provided in city code section 1200.030(6).

Section 7. City code §1105.070 is amended as follows:

1105.070. Maintenance and Removal.

The abutting property owner, or a responsible homeowner's association, must maintain a driveway approach in a safe condition, in compliance with this ordinance and the city engineer's requirements, and in a manner that does not interfere with or obstruct the drainage carried by the adjoining street or the use of the adjoining street for travel. If a driveway approach is not maintained in this manner, the city engineer may give written notice to the owner of the abutting property to remove it. The property owner must then, at his or her expense, remove the driveway approach and restore the street, curbing, and right-of-way to its former condition. The removal and restoration must be completed within 10 days after the owner received the city engineer's notice, or a later date authorized in writing by the city engineer, unless the order is appealed in the manner in section 1105.045(4) and (5). If the removal and restoration are not timely completed, the city may do the work, and the city's costs will be a lien against the abutting property.

The city may assess the cost against the abutting property in the same manner as delinquent utility fees.

Section 8. City code §1115.015 is amended as follows:

1115.015. Delinquent Payments for Electric Street Lighting.

Payments for the street lighting system are payable within 30 days following the receipt of a statement from the city. ~~Under Minn. Stat. § 429.101, d~~Delinquent and unpaid charges are a lien against the benefiting property and may be certified to the county auditor and collected as a special assessment on the property receiving the service, pursuant to Minn. Stat. §429.101.

Section 9. City code §1200.015 is amended as follows:

1200.015. Connections Required.

1. The owner of any property presently developed for residential use which is not connected to the municipal water system must connect the property before its sale or other legal transfer of ownership. If the owner fails to do so, the buyer must make the connection immediately after the sale or transfer. All property presently developed for non-residential use must be connected to the municipal water system. All new structures must be connected to the municipal water system at the time of construction. The community development director may grant an extension of time for compliance with this ordinance not to exceed 6 months. The director may impose appropriate stipulations including the posting of a performance bond or other financial security if desirable. If compliance with the requirements of this paragraph is not timely achieved, the city may make the necessary connection, and the city's costs will be a lien against and ~~assess the costs~~may be assessed against the property in the same manner as delinquent utility bills. The city may file an appropriate document in the chain of title for non-complying properties providing notice of these requirements.

2. The owner of property where a cesspool or septic tank was in existence before construction of the municipal sanitary sewer must connect with the public sanitary sewer when the cesspool or septic tank is in need of repair or reconstruction, or within two years after the date that municipal sanitary sewer service is available to the premises, whichever occurs first. If the necessary connection is not timely made, the city may

make the connection, ~~and the city's costs will be a lien against~~ and ~~assess the costs may~~ be assessed against the property in the same manner as delinquent utility bills. Any property owner who can demonstrate that connection to municipal sewer is not feasible due to distance, topography or pending land use change may apply in writing for a variance, stating the circumstances that make connection infeasible. The council may waive the requirement as long as no health, safety or welfare hazard exists or would result. Before requesting the variance and periodically thereafter as determined by the city, the property owner must test the current cesspool or septic tank at the owner's expense to ensure that a potential health hazard does not exist and is not likely to occur. The results of the test must be filed with the community development director along with a fee of \$10 for each test. Failure to conduct the testing or pay the fee is grounds for the revocation of any variance granted under this section. The city may file an appropriate document in the chain of title for non-complying properties providing notice of these requirements.

Section 10. City code §1200.095, subd. 5 is amended as follows:

5. Corrections. The owner of a property found to be in violation of this section must make the necessary corrections to comply with this section within the time specified in the written notification from the city. If the owner fails or refuses to make the required connections within the specified time, the city may make the necessary corrections and charge the cost to the property owner. Costs that are not paid are a lien against the property and may be certified for collection as a special assessment in the same manner as delinquent utility bills.

Section 11. City code §1205.010 is amended as follows:  
1205.010. Storm Sewer Costs.

Every property owner in the city has the obligation to pay a proportionate share of the costs of the construction, reconstruction, repair, enlargement, improvement, maintenance, operation, and use of the storm sewer systems in the city that accommodate stormwater from the owner's property. This may be accomplished through the imposition of storm sewer utility charges. Storm sewer charges will be established by the council through a uniform policy, in compliance with Minn. Stat. § 444.075. The charges are a lien against each property and will be collected under city code section 1200.030.

Section 12 A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 13. This ordinance is effective 30 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on January 26, 2009.

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Terry Schneider, Mayor

ATTEST:

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David E. Maeda, City Clerk

**ACTION ON THIS ORDINANCE:**

Date of introduction: January 5, 2009  
Date of adoption: January 26, 2009  
Motion for adoption: Allendorf  
Seconded by: Hiller  
Voted in favor of: Allendorf, Ellingson, Hiller, Schneider, Wagner, Wiersum  
Voted against:  
Abstained:  
Absent:  
Ordinance adopted.

Date of publication:

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

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 January 26, 2009.

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David E. Maeda, City Clerk

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