

Ordinance No. 2023-017

An Ordinance relating to administrative citations and penalties; amending sections 1310.010, 1310.030, 1310.050 and 1310.055 of the Minnetonka City Code

The City of Minnetonka Ordains:

Section 1. Section 1310.010 of the Minnetonka City Code, is amended to read as follows:

1310.010. Penalties.

1. A person who violates section 1310.005 is guilty of a misdemeanor and upon conviction will be punished in accordance with state law; provided, that if a different punishment is stated in this code, that provision governs the punishment for the violation.
2. Designation as a petty misdemeanor means that upon conviction the sentence will be in accordance with state law. If not designated as "petty misdemeanor," a violation is a misdemeanor as set forth above in paragraph 1.
3. Each calendar day that section 1310.005 is violated constitutes a separate offense.
4. A person who violates section 1310.005 by failing to obtain a required permit or other approval must pay a penalty equal to the amount of the fee for the required permit or approval, in addition to paying the required permit or application fee twice the applicable fee related to the violation.
5. A violation of section 1310.005 constitutes sufficient grounds for denial of an application required by this code that is related to the violation.
6. ~~Action prohibited by section 1310.005 may, at the option of the city, void a city approval that is related to the violation.~~ [repealed]
7. The city attorney may institute a legal proceeding in the name of the city of Minnetonka to prevent, restrain, remedy, or abate a violation of section 1310.005.
8. Nothing in this section prevents the city from taking other action permitted by law, and the penalties and remedies provided here and under other law are cumulative.

Section 2. Section 1310.030, subdivision 2 of the Minnetonka City Code, relating to administrative citations, is amended to read as follows:

1310.030. Administrative Citation.

1. A person authorized to enforce provisions of the city code may issue an administrative citation upon belief-probable cause that a code violation has occurred. The citation must be issued in person or by mail to the person responsible for the

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

violation or attached to the motor vehicle in the case of a vehicular offense. The citation must state the date, time, and nature of the offense, the name of the issuing officer, the amount of the scheduled fine, and the manner for paying the fine or appealing the citation.

2. The person ~~to whom the citation is issued may contest the responsible for~~ the violation ~~by must either pay the scheduled fine or request filing a written request for a hearing with the city clerk within seven days after issuance of the citation. Payment of the fine constitutes admission of the violation. A late payment fee of 10 percent of the scheduled fine amount may be imposed under section 1310.050.~~

3. Except as provided in this subdivision, the scheduled fine set forth in the citation is due and payable 30 days after issuance of the citation. Payment of the fine constitutes admission of the violation. If a hearing is requested and held, the amount of the fine will be determined by the hearing officer or, if there is a subsequent appeal, by the city council. Any fine imposed as a result of the hearing or appeal process is due 30 days after the hearing officer or city council decision is issued.

Section 3. Section 1310.050 of the Minnetonka City Code is amended to read as follows:

1310.050. Recovery of Civil Penalties; late fee.

1. A late payment fee of 10 percent of the fine is imposed upon any civil fine that is not paid within 30 days after the due date. If a civil penalty is not paid within the time-specified, it will constitute:

~~—a.— a lien on 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. Personal obligation. A civil penalty, and any applicable late fee, is a personal obligation of the violator and may be collected by appropriate legal means. A lien may be assessed against the property and collected in the same manner as taxes.

3. Assessment of unpaid fines.

a. Unpaid civil fines imposed for property-related violations, and related late fees, if any, may be assessed against property below, if the person responsible for the violation is the property owner or the owner's agent or contractor:

(1) property which was the subject matter or related to the subject matter of the civil fines; or

~~(2) property which was the location of an activity, proposed use, delivery of city service, or other circumstance which resulted in the fine. A personal obligation may be collected by appropriate legal means.~~

b. Prior to any assessment for unpaid fines, the city manager or manager's designate must seek voluntary payment of the fine(s) by notifying the owner of the property in writing of the fine imposed.

4. If efforts to obtain voluntary payment fail, the council may certify the unpaid amount as an assessment against the property. The council will establish the appropriate administrative fee and rate of interest on the assessment, 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 and the person to whom the citation was issued, if different than the taxpayer. Failure of the taxpayer or other person 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. A late payment fee of 10 percent of the fine may be assessed for each 30-day period, or part thereof, that the fine remains unpaid after the due date.

5. During the time that a civil penalty remains unpaid, the provisions of city code section 210 apply to a license, permit, or other city approval sought by the violator or for property under the violator's ownership or control.

~~6. Failure to pay a fine is grounds for suspending or revoking a license related to the violation.~~

Section 4. Section 1310.055 of the Minnetonka City Code is amended to read as follows:

1310.055. Criminal Prosecution Penalties

~~The following are misdemeanors, punishable in accordance with state law:~~

~~1. failure, without good cause, to appear at a hearing that was scheduled under section 1310.035;~~

~~2. failure to pay a fine imposed by a hearing officer within 30 days after it was imposed, or such other time as may be established by the hearing officer, unless the matter is appealed under section 1310.040; and~~

~~3. failure to pay a fine imposed by the city council within 30 days after it was imposed, or such other time as may be established by the city council.~~


If the final adjudication in the administrative penalty procedure is a finding of no violation, then the city may not prosecute a criminal violation in district court based on the same set of facts. This does not preclude the city from pursuing a criminal conviction for a violation of the same provision based on a different set of facts. A different date of violation will constitute a different set of facts.

Section 5. This ordinance is effective 30 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on Oct. 16, 2023.

DocuSigned by:

31AA42DB32F7416
Brad Wiersum, Mayor

Attest:
DocuSigned by:

C8F1B0904054E1
Becky Koosman, City Clerk

Action on this Ordinance:

Date of introduction: Sept. 18, 2023
Date of adoption: Oct. 16, 2023
Motion for adoption: Schack
Seconded by: Calvert
Voted in favor of: Schack-Wilburn-Calvert-Schaeppi-Coakley-Wiersum
Voted against: None
Abstained: None
Absent: Kirk
Ordinance adopted.

Date of publication: Nov. 2, 2023

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on Oct. 16, 2023.

Becky Koosman, City Clerk