

## CHAPTER 561

### NUISANCE, TRESPASS, WASTE; DAMAGES

561.01	NUISANCE; ACTION.	561.11	INACTIVE.
561.02	MALICIOUSLY MAINTAINED STRUCTURE.	561.12	INACTIVE.
561.03	REMEDIES.	561.13	INACTIVE.
561.04	TRESPASS; TREBLE DAMAGES.	561.14	INACTIVE.
561.05	INACTIVE.	561.15	INACTIVE.
561.051	LIABILITY FOR ACTS OF WILD ANIMALS.	561.16	INACTIVE.
561.06	INACTIVE.	561.17	ACTION FOR WASTE.
561.07	ANIMALS MAY BE IMPOUNDED.	561.18	WASTE PENDING YEAR FOR REDEMPTION; INJUNCTION.
561.08	OWNER OF PROPERTY MAY DISTRAIN.	561.19	NUISANCE LIABILITY OF AGRICULTURAL OPERATIONS.
561.09	OWNER OF ANIMALS LIABLE FOR TRESPASS.		
561.10	TRESPASS AFTER EXECUTION OR FORECLOSURE SALE.		

#### 561.01 NUISANCE; ACTION.

Anything which is injurious to health, or indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, is a nuisance. An action may be brought by any person whose property is injuriously affected or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered.

**History:** (9580) *RL s 4446*

#### 561.02 MALICIOUSLY MAINTAINED STRUCTURE.

Any fence, or any other structure, maliciously erected or maintained for the purpose of annoying the owners or occupants of adjoining property shall be deemed a private nuisance.

**History:** (9581) *1907 c 387 s 1*

#### 561.03 REMEDIES.

Any such owner or occupant injured, either in comfort or in the enjoyment of an estate by such fence, or any other structure, may have an action of tort for the damage sustained thereby and may have such nuisance abated.

**History:** (9582) *1907 c 387 s 2; 1986 c 444*

#### 561.04 TRESPASS; TREBLE DAMAGES.

Whoever without lawful authority cuts down or carries off any wood, underwood, tree, or timber, or girdles or otherwise injures any tree, timber, or shrub, on the land of another person, or in the street or highway in front of any person's house, city lot, or cultivated grounds, or on the commons or public grounds of any city or town, or in the street or highway in front thereof, is

liable in a civil action to the owner of such land, or to such city or town, for treble the amount of damages which may be assessed therefor, unless upon the trial it appears that the trespass was casual or involuntary, or that the defendant had probable cause to believe that the land on which the trespass was committed was the defendant's, or that of the person in whose service or by whose direction the act was done, in which case judgment shall be given for only the single damages assessed. This section shall not authorize the recovery of more than the just value of timber taken from uncultivated woodland for the repair of a public highway or bridge upon or adjoining the land.

**History:** (9585) RL s 4449; 1973 c 123 art 5 s 7; 1986 c 444

**561.05** [Repealed, 1963 c 753 art 2 s 17]

#### **561.051 LIABILITY FOR ACTS OF WILD ANIMALS.**

An owner of land shall not be liable in trespass, nuisance, or otherwise for the actions of wild animals in their natural state.

**History:** 1982 c 462 s 10

**561.06** [Repealed, 1963 c 753 art 2 s 17]

#### **561.07 ANIMALS MAY BE IMPOUNDED.**

Any person may, and every sheriff and police officer shall, distrain and impound any cattle, horses, mules, sheep, swine, or any domestic fowls running at large or trespassing upon the lands of another or upon any public property in this state, and when so impounded such proceedings shall be had relative to the animals and fowls so impounded as are or shall be provided by the general laws of this state relating to the impounding of animals.

**History:** (1388) 1921 c 319 s 3; 1967 c 516 s 1; 2005 c 10 art 2 s 4

#### **561.08 OWNER OF PROPERTY MAY DISTRAIN.**

The owner or occupant of lands in any city may distrain any of such animals or fowls doing damage on such lands, and thereupon such proceedings as to these animals or fowls and the disposition thereof and the damage done thereby as are or shall be provided by the general laws of this state relating to the distraining by the owner or occupant of lands, of any beast doing damage thereon, the disposition of the beast distrained, and the appraisal of the damages, and the collection thereof.

**History:** (1389) 1921 c 319 s 4; 1973 c 123 art 5 s 7

#### **561.09 OWNER OF ANIMALS LIABLE FOR TRESPASS.**

In case the owner or occupant of lands shall not distrain the animals or fowls doing damage as provided herein, then any person who shall knowingly permit the running at large or trespass

of any such domestic animal or fowl within any city, shall be liable to the person aggrieved for treble the damages sustained, to be recovered in a civil action.

**History:** (1390) 1921 c 319 s 5; 1973 c 123 art 5 s 7; 1986 c 444

#### **561.10 TRESPASS AFTER EXECUTION OR FORECLOSURE SALE.**

When real property is sold on execution or under judgment or mortgage, the purchaser thereof, or any person who has succeeded to the purchaser's interest, after the estate becomes absolute, may recover damages for injury to the property by the tenant in possession after the sale, and before possession is delivered under the conveyance.

**History:** (9586) RL s 4450; 1986 c 444

**561.11** [Repealed, 1986 c 398 art 12 s 5]

**561.12** [Repealed, 1986 c 398 art 12 s 5]

**561.13** [Repealed, 1986 c 398 art 12 s 5]

**561.14** [Repealed, 1986 c 398 art 12 s 5]

**561.15** [Repealed, 1986 c 398 art 12 s 5]

**561.16** [Repealed, 1986 c 398 art 12 s 5]

#### **561.17 ACTION FOR WASTE.**

If a guardian, tenant for life or years, joint tenant, or tenant in common, of real property, commits waste thereon, any person injured by the waste may bring an action against the waster therefor, in which there may be judgment for treble damages, forfeiture of the estate of the party offending, and eviction from the property. Judgment of forfeiture and eviction can only be given in favor of the person entitled to the reversion, against the tenant in possession when the injury to the estate in reversion is adjudged in the action to be equal to the value of the tenant's estate or unexpired term, or to have been done in malice.

**History:** (9583) RL s 4447; 1986 c 444

#### **561.18 WASTE PENDING YEAR FOR REDEMPTION; INJUNCTION.**

When real property is sold upon execution or under judgment or mortgage, until the expiration of the time allowed for redemption, the court may restrain the commission of waste on the property, by order granted, with or without notice, on application of the purchaser or the purchaser's assigns holding the certificate of sale; but it is not waste for the person in possession of the property at the time of sale, or entitled to the possession afterwards, during the time allowed for redemption, to continue to use it in the same manner in which it was previously used, or to use it in the ordinary course of husbandry, or to make the necessary repairs of the buildings thereon,

or to use wood or timber on the property therefor, or for the repair of fences or for fuel for the possessor's family, while the possessor occupies the property.

**History:** (9584) RL s 4448; 1986 c 444

### **561.19 NUISANCE LIABILITY OF AGRICULTURAL OPERATIONS.**

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given them:

(a) "Agricultural operation" means a facility and its appurtenances for the production of crops, livestock, poultry, dairy products or poultry products, but not a facility primarily engaged in processing agricultural products.

(b) "Established date of operation" means the date on which the agricultural operation commenced. If the agricultural operation is subsequently expanded or significantly altered, the established date of operation for each expansion or alteration is deemed to be the date of commencement of the expanded or altered operation. As used in this paragraph, "expanded" means an expansion by at least 25 percent in the number of a particular kind of animal or livestock located on an agricultural operation.

"Significantly altered" does not mean:

(1) a transfer of an ownership interest to and held by persons or the spouses of persons related to each other within the third degree of kindred according to the rules of civil law to the person making the transfer so long as at least one of the related persons is actively operating the farm, or to a family farm trust under section 500.24;

(2) temporary cessation or interruption of cropping activities;

(3) adoption of new technologies; or

(4) a change in the crop product produced.

(c) "Generally accepted agricultural practices" means those practices commonly used by other farmers in the county or a contiguous county in which a nuisance claim is asserted.

Subd. 2. **Agricultural operation not a nuisance.** (a) An agricultural operation is not and shall not become a private or public nuisance after two years from its established date of operation as a matter of law if the operation:

(1) is located in an agriculturally zoned area;

(2) complies with the provisions of all applicable federal, state, or county laws, regulations, rules, and ordinances and any permits issued for the agricultural operation; and

(3) operates according to generally accepted agricultural practices.

(b) For a period of two years from its established date of operation, there is a rebuttable presumption that an agricultural operation in compliance with the requirements of paragraph (a), clauses (1) to (3), is not a public or private nuisance.

(c) The provisions of this subdivision do not apply:

(1) to an animal feedlot facility with a swine capacity of 1,000 or more animal units as defined in the rules of the Pollution Control Agency for control of pollution from animal feedlots, or a cattle capacity of 2,500 animals or more;

(2) to any prosecution for the crime of public nuisance as provided in section 609.74 or to an action by a public authority to abate a particular condition which is a public nuisance; or

(3) to any enforcement action brought by a local unit of government related to zoning under chapter 394 or 462.

Subd. 3. **Existing contracts.** This section shall not be construed to invalidate any contracts or commitments made before January 1, 1983.

Subd. 4. **Severability.** If a provision of this section, or application thereof to any person or set of circumstances, is held invalid or unconstitutional, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application. To that end, the provisions of this section are declared to be severable.

Subd. 5. [Repealed, 1983 c 182 s 2]

**History:** 1982 c 533 s 1; 1983 c 182 s 1; 1994 c 619 s 9,10; 1994 c 622 s 4,5; 2001 c 128 s 4; 2004 c 254 s 43,44