

Chapter 5. Nuisances

Part 1. Public Nuisances

501.01. Public Nuisance Defined. Whoever by his or her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

- a. Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
- b. Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-ways, or waters used by the public, or other public grounds, or
- c. Is guilty of any other act or omission declared by law or this ordinance to be a public nuisance and for which no sentence is specifically provided.

501.02. Public Nuisances Affecting Health. The following are hereby declared to be nuisances affecting health:

- a. Exposed accumulation of decayed or unwholesome food or vegetable matter;
- b. All diseased animals running at large;
- c. All ponds or pools of stagnant water;
- d. Carcasses of animals not buried or destroyed within 24 hours after death;
- e. Accumulations of manure, refuse, or other debris;
- f. Privy vaults and garbage cans which are not rodent free or fly right or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- g. The pollution of any public well or cistern, stream, or lake, canal or body of water by sewage, industrial waste, or other substance;
- h. All noxious weeds and other rank growths of vegetation upon public or private property;
- i. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities.
- j. All public exposure of people having a contagious disease;
- k. Any offensive trade or business as defined by statute not operating under local license.

501.03. Public Nuisances Affecting Morals and Decency. The following are hereby declared to be nuisances affecting public morals and decency:

- a. All illegal gambling devices, slot machines, and punch boards;
- b. Betting, bookmaking, and all apparatus used in such occupation;
- c. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;
- d. All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining such a place;
- e. Any vehicle used for the transportation of illegal intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

501.04. Public Nuisances Affecting Peace and Safety. The following are declared to be

nuisances affecting public peace and safety:

- a. All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;
- b. All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
- c. All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
- d. All unnecessary noises and annoying vibrations;
- e. Obstructions and excavations affecting the ordinary except under such conditions as are permitted by this code or other applicable law;
- f. Radio aerials or television antennas erected or maintained in a dangerous manner;
- g. 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 the street or sidewalk;
- h. All hanging signs, awnings, and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;
- i. The allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
- j. Any barbed wire fence less than six feet above the ground and within three feet of public sidewalk or way;
- k. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- l. Waste water cast upon or permitted to flow upon streets or other public properties;
- m. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, or other material, in any manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or safety hazards from such accumulation;
- n. Any well, hole, or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- o. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;
- p. The placing or throwing of any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over such substance;
- q. The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- r. Discarded construction material or other litter at a construction site that is not placed in an adequate waste container or that is allowed to blow around or off the site (Amended 07/20/15).
- s. Accumulation of decaying animal or plant material, animal or human feces, trash, refuse, yard waste, rubbish, garbage, rotting lumber, packing material, scrap metal, tires

or any other substances in which flies, mosquitoes, other disease carrying insects, rodents or other vermin can harbor. (Amended 07/20/15)

- t. All other conditions or things which are likely to cause injury to the person or property of anyone.

~~501.05. **Duties of City Officers.** The city engineer, street superintendent, police department, or other designated official shall enforce the provisions of this ordinance relating to nuisances affecting public safety. The police or sheriff department shall enforce provisions relating to other nuisances and shall assist the other designated affecting public safety. Such officers shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.~~

Duties of City Officers. The city engineer, street superintendent, County Sheriff's Office, or other designee of the City Council, hereinafter City Officer, shall enforce the provisions of this ordinance relating to nuisances affecting public peace and safety. The Dodge County Sheriff's Office shall enforce provisions relating to other nuisances.

- a. The City Officer shall determine and declare the existence of a Public Nuisance.
- b. The City Officer shall not enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident, or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing entry.
- c. The owner of Private Property on which a Public Nuisance has been declared must, upon the demand of the City Officer permit access to all portions of the Private Property and structures thereon at any reasonable time for the purposes of inspection, remediation and abatement as often as the City Officer deems necessary and shall exhibit and allow the copying of all records necessary to ascertain compliance with this ordinance. (Amended 07/20/15)

~~501.06. **Abatement.** Subdivision I. **Notice.** Written notice of violation; notice of time, date, place and subject of any hearing before the city council; notice of city council order; and notice of motion for summary enforcement hearing shall be given as set forth in this subdivision.~~

- ~~a. **Notice of violation.** Written notice of violation shall be served by the officer charged with enforcement on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises are not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.~~
- ~~b. **Notice of council hearing.** Written notice of any city council hearing to determine or abate nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premises are not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of council hearing, notice of council hearing shall be served by posting it on the~~

~~premises.~~

- ~~c. Notice of city council order. Except for those cases determined by the city to require summary enforcement, written notice of any city council order shall be made as provided in Minn. Stat. 463.17 (Hazardous and Substandard Building Act).~~
- ~~d. Notice of motion for summary enforcement. Written notice of any motion for summary enforcement shall be made as provided for in Minn. Stat. 463.17 (Hazardous and Substandard Building Act).~~

~~Subd 2. **Procedure.** Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the city, the officer shall notify in writing the owner of record or occupant of the premises of such fact and order that such 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 enforcing officer shall report forthwith to the council. Thereafter, the 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 council the city may seek injunctive relief by serving a copy of the city council order and notice of motion for summary enforcement.~~

~~Subd 3. **Emergency Procedure; Summary Enforcement.** In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in subdivisions 1 and 2 above will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the city council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer charged with enforcement shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety, or welfare. The enforcement officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the council meeting to consider the question of summary enforcement. The city council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in subdivision 1 above, and may order that such nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the city council may order summary enforcement and abate the nuisance. (Amended 07/20/15)~~

501.06 Procedure.

Subdivision 1. **Responsibility of Property Owner.** It shall be the primary responsibility of a property owner or occupant to abate any public nuisance, as defined in this section or elsewhere in this code, which exists on the owner's property or abutting thereto, at the owner's expense.

Subdivision 2. **Notice.** Where a Public Nuisance is found to exist upon Private Property, the City

Officer may cause a declaration of Public Nuisance and Abatement Order to be served by U.S. Mail upon the owner of said premises. The Abatement Order shall include the following:

- (a) Property location by street address, and property identification number or legal property description.
- (b) Information identifying the nature of the Public Nuisance on the property.
- (c) A summary of the owner's responsibilities under this ordinance.
- (d) Specific orders for abatement or remediation of the Public Nuisance.
- (e) A date for completion of the abatement not less than ten (10) business days following the receipt of the Abatement Order unless a shorter period of time is determined necessary by the City to protect the public health and safety.
- (f) Notice that unless the Public Nuisance condition is abated or removed in accordance with the terms of the Abatement Order, the City may, in its discretion have the Public Nuisance abated or removed at the expense of the owner and that the cost thereof will constitute a charge against the Private Property which shall be collected in the manner of a tax.
- (g) Notice of the right of appeal as provided in Subdivision 5 of this ordinance.

Subdivision 3. **Abatement.** If, at the end of the period fixed by the City for the abatement or removal of a Public Nuisance, the Public Nuisance has not been abated or removed by the owner or other interested party and no appeal has been filed pursuant to Subdivision 5, the City may cause the same to be abated or removed by the City or in any other manner deemed appropriate.

Costs and expenses of such abatement, including overheads and allowances for time of City employees with a minimum inspection charge of \$100, expenses of equipment, if used, and sums of money necessarily paid out if done by other than City employees, shall be charged against the Private Property in the manner provided in Subdivision 3.

Subdivision 4. **Costs of abatement.** The owner of property on or adjacent to which an abatement has been performed shall be personally liable for the cost of the abatement. The city shall prepare and mail an invoice of the charges for the cost of the abatement to the owner, and the charges shall be immediately due and payable to the city. Unpaid charges for abatement shall be subject to monthly service charges (late fee/penalty) until paid in full or assessed as provided herein.

Subdivision 5. **Special assessment for unpaid charges.** Any unpaid charges shall be specially assessed against the property benefitted. The City Council shall adopt an assessment roll levying a special assessment upon such property, which shall be transmitted to the county auditor and included with the next tax levy upon such property and collected in the manner provided by law for the levy and collection of other special assessments.

Subdivision 6. **Appeal and Summary Abatement.**

- (a). When a Public Nuisance is declared, the owner of the Private Property may appeal the declaration, including Abatement Order, by filing a written request for an administrative hearing with the City Clerk within ten (10) calendar days of the issuance of the Notice of Public Nuisance. A hearing shall be held at the next scheduled city council meeting.

(b). Where a declared Public Nuisance constitutes, in the sole determination of the City, an imminent threat to the public health or safety, an immediate threat of serious property damage, or the Public Nuisance has been caused by the actions of private parties on public property, the City may order the immediate abatement thereof notwithstanding this provision. Where there has been summary abatement, any properly filed appeal thereafter will be limited to the issue of cost recovery by the City.

501.07. Recovery of Cost.

Subdivision 1. **Personal Liability.** The owner of the premises on which a nuisance has been abated by the city 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 official designated by the council 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.** 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 streets, or unsound or insect-infected trees, the 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 council may then spread the charges against such property under that statute and 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 council may determine in each case.

501.08. Penalty. Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed \$700 or imprisonment for not more than 90 days, or both, plus the costs of prosecution in either case.