

Chapter 12

NUISANCES*

ARTICLE I. PUBLIC NUISANCES.

Sec. 12-1. Definition.

For the purposes of this chapter, the word “nuisance” is hereby defined as any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health or safety of others, or
 - (2) Offends decency; or
 - (3) Is offensive to the senses; or
 - (4) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage; or
 - (5) In any way renders other persons insecure in life or the use of property; or
 - (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.
- (Code 1953, 5.0602)

Sec. 12-2. Illustrative enumeration.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- (1) Noxious weeds and other rank vegetation.
- (2) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
- (3) Any condition which provides harborage for rats, mice, snakes and other vermin.
- (4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
- (5) All unnecessary or unauthorized noises and annoying vibrations, including animal noises.

* **Cross references**-Board of Health, 2-81 et seq.; abatement of noxious weeds and other vegetation, Ch. 20; waters, sewers and sewage disposal, Ch. 22.

- (6) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.
- (7) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (8) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
- (9) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
- (10) Any accumulation of stagnant water permitted or maintained on any lot of piece of ground.
- (11) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.
(Code 1953, 5.0602)

Sec. 12-3. Notice of hearing.

When it comes to the attention of the health officer or any other appropriate City official that a nuisance may exist on any premises within the City, a preliminary notice shall be served upon the owner of the premises, or his agent, or the occupant thereof, which shall inform such person that it is alleged that a nuisance exists on such premises and shall contain:

- (1) The location of the alleged nuisance, if the same is stationary.
- (2) A description of what constitutes the alleged nuisance.
- (3) A statement notifying the person of the date, time and place of a hearing at which the Board of Health shall determine whether the nuisance exists, and that if after such hearing the board determines that a nuisance does exist, or if the person fails to appear, that the City shall abate the nuisance and assess the costs thereof against such person. The notice shall also inform such person that at the hearing he shall have the right to appear, be represented by an attorney, present evidence and cross-examine witnesses.
(Code 1953, 5.0603)

Sec. 12-4. Service of notice.

The notice of hearing required by the provisions of this chapter shall be served by the health officer or his delegate, signed by him, upon the owner or his agent or the occupant of any lot, building or premises which constitutes a nuisance. If the owner or his agent, or the occupant of such premises cannot be found, the notice shall be served by posting it on the premises.
(Code 1953, 5.0108)

Sec. 12-5. Hearing.

At the date, time and place specified in the notice of hearing served pursuant to the provisions of this chapter, the Board of Health shall hold a hearing to determine whether a nuisance exists on the premises upon which it is alleged that a nuisance does exist. Such hearing shall be held no sooner than five (5) days after the service of the notice of hearing. At such hearing the person served with the notice shall have the right to appear, be represented by an attorney, present evidence and cross examine witnesses. If, after the hearing, the board determines that the nuisance does exist or if the person served fails to appear, then the board shall issue a written order to abate the nuisance.

(Code 1953, 5.0607)

Sec. 12-6. Notice to abate.

A notice to abate a nuisance issued pursuant to this chapter shall be served in the same manner as the notice of hearing and shall contain the following:

- (1) An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances.
- (2) The location of the nuisance, is the same if stationary.
- (3) A description of what constitutes the nuisance.
- (4) A statement of facts necessary to abate the nuisance.
- (5) The date, time and place at which the hearing required by the provisions of this chapter was scheduled.

(Code 1953, 5.0607)

Sec. 12-7. Prohibited.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance, after he is served with an abatement order pursuant to the provisions of this chapter.

(Code 1953, 5.0607)

Sec. 12-8. Abatement by City.

Upon the failure of the person upon whom notice to abate a nuisance as required in the notice was served pursuant to the provisions of this chapter to abate the same, the health officer or other duly designated officer of the City shall proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof. The City may contract with others for such purpose. Any person abating a nuisance pursuant to this Section is hereby authorized to enter premises for that purpose.

(Code 1953, 5.0108, 5.0607)

Sec. 12-9. Special assessment.

If the City abates a nuisance pursuant to the provisions of this chapter, and the costs incurred by the City or its contractor are not paid within thirty (30) days after the receipt of a statement thereof from the City, such costs may be levied against the property benefited or upon which the nuisance existed as a special assessment. The levying of such special assessment shall not affect the liability of the person to whom the order is directed for punishment for violations of this Code.

(Code 1953, 5.0108, 5.0607)

Secs. 12-10-12-19.

ARTICLE II. LAWN MAINTENANCE.

Sec. 12-20. Maximum height.

The property owner, tenant or person in possession of any property located within the City shall maintain the lawn in such a manner to allow grass and/or weeds shall not be permitted to grow more than six inches (6") in height.

Sec. 12-21. Notice.

No criminal penalty or billing shall be imposed under this article unless the City causes notice to be given to all owners, tenant or persons in possession of said property within said City that the height of the grass and/or weeds has exceeded the height of six inches (6") and that any grass and/or weeds that exceed said height shall be removed within forty eight (48) hours of reaching that height. Notice shall be placed in the official newspaper published twice a year, the first being on or around the 1st day of April and the second being published on or around June 15th. Either published notice shall constitute notice as required by this Section.

Sec. 12-22. Violation.

Any person violating any of the provisions of this article shall be subject to both criminal and civil sanctions. The City, at its election, may either proceed criminally for a violation of this article with a maximum punishment as provided by Ordinance for each day the violation exists, and/or the City may, at its option, cause the property to be mowed at a cost of \$200.00 per hour, per mowing with a minimum of one hour and to bill the cost and expenses of such mowing to the property owner. That the penalty for any citation issued by the City of Madison for a violation of Section 12-20 shall be twenty five (\$25.00) dollars per violation.

(Ord. No. 1298, 06-12-00; Ord. No. 1495, 8-16-10)

[The next page is 2600]