

Public Nuisances Affecting Health

The City of De Pere Ordinances describe certain conditions in which a nuisance exists or has a potential to exist which has adversely affected or has the potential to adversely affect the health of a person and/or the general public. These ordinances give the Health Department the authority to investigate instances of potential nuisances including but not limited to: accumulations of animal or human wastes; carcasses of animals, birds or fowl; garbage; scrap metal; tires, and other material that may create a health hazard in which insects, rats or other vermin can breed, live, nest or seek shelter. In addition to city ordinances, there is also state law relating to human health hazards found in Wisconsin Statute 254, Subchapter VI.

If you would like to report a potential nuisance that affects health, please contact the City of De Pere Health Department at 920-339-4054. Follow up will be made by Health Department staff to determine whether the issue falls under city ordinance or state law. The Health Department has the authority to issue orders for cleanup and, if necessary, is also authorized to issue a citation under such laws if the violation is not remedied.

WI Statute 254.59

<https://docs.legis.wisconsin.gov/statutes/statutes/254/VI/59>

City of De Pere Nuisance Ordinance

Sec. 78-1. Public nuisances prohibited.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the city or within the police jurisdiction of the city.

(Code 1974, § 22.01)

Sec. 78-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Public nuisance means a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
- (2) In any way render the public insecure in life or in the use of property.
- (3)

Greatly offend the public morals or decency.

(4)

Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way.

Public nuisances affecting health means the following acts, omissions, places, conditions and things, but shall not be construed to exclude other health nuisances coming within the definition of the term "public nuisances."

(1)

All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.

(2)

Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death.

(3)

Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material in which flies, mosquitoes, disease carrying insects, rats or other vermin may breed.

(4)

All stagnant water in which mosquitoes, flies or other insects can multiply.

(5)

Garbage containers which are not flytight.

(6)

All noxious weeds and other rank growth of vegetation.

(7)

The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the city, or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.

(8)

The pollution of the Fox River or of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes, refuse, garbage or other substances.

(9)

Any use of property, substances or things within the city or within four miles of the city, emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or

inconvenience the health of any appreciable number of persons within the city.

(10)

All abandoned wells not securely covered or secured from public use.

(11)

Any obstruction in or across any watercourse, drainage ditch or swale.

(12)

The deposit of garbage, refuse or any offensive substance on any public or private property except as may be permitted by ordinance.

Public nuisances affecting peace and safety means the following acts, omissions, places, conditions and things, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of the term "public nuisance."

(1)

All ice not removed from the public sidewalks and all snow not removed from public sidewalks within 24 hours after it has ceased to fall thereon.

(2)

All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public so situated or constructed as to endanger the public safety.

(3)

All buildings erected, repaired or altered within the fire limits of the city in violation of the provisions of the ordinances of the city, relating to materials and manner of construction of buildings and structures within such district.

(4)

All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as official traffic control devices placed or maintained upon or in view of any public highway or railway crossing.

(5)

All trees, hedges, billboards or other obstruction which prevent persons driving upon public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(6)

All limbs of trees which project over a public sidewalk less than 12 feet above the surface of the sidewalk or less than 14 feet above the surface of a public street.

(7)

All use or display of fireworks except as provided by the laws of the state and ordinances of the city.

- (8) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- (9) All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface of the street or ground.
- (10) All loud, discordant and unnecessary noises or vibrations of any kind.
- (11) No person shall park or leave standing for more than 15 minutes in any street in the city a vehicle containing livestock, live fowl or other living animals.
- (12) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the city.
- (13) The obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the city or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose of such excavation has been accomplished.
- (14) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- (15) All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which cannot be opened by pushing from the inside by a small child.
- (16) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
- (17) Repeated or continuous violations of the ordinances of the city or laws of the state relating to the storage of flammable liquids.
- (18)

Any structure, material or condition which constitutes a fire hazard or will impair the extinguishing of any fire.

(19)

Any nuisance so defined by the state statutes.

Public nuisances offending morals and decency means the following acts, omissions, places, conditions and things, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of the term "public nuisance."

(1)

All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling and houses where illegal drugs or controlled items are regularly used, consumed, possessed or transferred as prohibited under Wis. Stats. §§ 23.09—23.15.

(2)

All gambling devices and slot machines.

(3)

All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided by this Code.

(4)

Any place or premises where city ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

(5)

Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the state or the ordinances of the city.

(Code 1974, § 22.02; Ord. No. 05-40, § 2, 10-18-2005; Ord. No. 10-06, § 2, 4-7-2010)

Cross reference— Definitions, § 1-3.

Sec. 78-3. Abatement of public nuisances.

(a)

Inspection of premises. Whenever the city receives a complaint that a public nuisance exists, the assistant director of public works, street superintendent, chief of police, health officer, sanitarian, city forester, or building inspector, whichever officer is appropriate under the circumstances, shall promptly be notified. The appropriate officer shall immediately inspect or cause to be inspected the premises upon which

the nuisance is said to exist and shall make a written report of such condition. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall maintain a file containing such written report and photographs.

(b)

Summary abatement.

(1)

Notice to owner. If the inspecting officer determines that a public nuisance exists on private property and that there is a great and immediate danger to the public health, safety, peace, morals, decency, comfort or repose, such officer may request the chief of police to serve notice on the owner or, if the owner cannot be found, on the occupant or person causing or permitting or maintaining such nuisance and shall also post a copy of the notice on the premises. Such notice shall direct the owner, occupant or person causing, permitting or maintaining such nuisance to abate or remove such nuisance within 24 hours and shall state that unless such nuisance is so abated, the city will cause the nuisance to be abated and will charge the cost of abatement against the owner, occupant or person causing, permitting or maintaining the nuisance in the manner otherwise provided in this section.

(2)

Abatement by city. If the nuisance is not abated within the time provided, or if the owner, occupant or person causing the nuisance cannot be found, the health officer in other cases, shall cause the abatement or removal of such nuisance.

(c)

Abatement by court action. If the inspecting officer shall determine that a public nuisance exists on private premises but the nature of such nuisances is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he or she shall file a written report of his or her findings with the mayor who shall cause an action to abate such nuisance to be commenced in the name of the city in the county circuit court in accordance with the provisions of Wis. Stats. ch. 823.

(d)

Other methods not excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the city or its officials in accordance with the laws of the state.

(Code 1974, § 22.03; Ord. No. 04-32, § 1, 12-7-2004; Ord. No. 05-40, § 3, 10-18-2005; Ord. No. 13-17, §§ 13, 15, 8-20-2013)

Sec. 78-4. Cost of abatement. 

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the city shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance. If notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as special taxes.

(Code 1974, § 22.04)

Sec. 78-5. Smoke.

(a)

Dense smoke. The emission of dense smoke from the smokestack of any engine or from the smokestack or chimney of any building within the city or within one mile of the city, is hereby declared to be a public nuisance and is prohibited.

(b)

Stationary engineer. The owner, lessee or occupant of any building, or the firefighter, engineer or any other person having charge or control of any furnace or stationary engine who shall cause, permit or allow dense smoke to issue or to be emitted from the smokestack or chimney connected with any such furnace or stationary engine within the city limits, or within a mile of the city limits, shall be guilty of creating a public nuisance and of violating the provisions of this section.

(c)

Soot. The emission of soot, cinders or coal dust from any chimney, stack, furnace or from any building within the city is hereby declared to be a public nuisance and is prohibited.

(Code 1974, § 22.05)

Sec. 78-6. Junked and abandoned motor vehicles.

(a)

Prohibited conduct. No person shall place or leave any junked motor vehicle, or parts of such vehicle, on any street, highway or other public property within the city. No person in charge or control of any private property within the city, whether as owner, tenant, occupant, or otherwise, shall place, or allow to remain, any junked vehicle on such property for more than three days if it is outside of any building and within the ordinary public view. No person shall leave unattended any motor vehicle on any public or private property in the city for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned.

(b)

Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Abandoned motor vehicle means any motor vehicle which has been left unattended without the permission of the property owner on whose property such vehicle is located for more than 48 hours unless such vehicle is designated as not abandoned by the chief of police.

Junked motor vehicle means any wrecked, disassembled, partially dismantled, inoperable or unused motor vehicle.

Vehicle means a motor vehicle, trailer, semitrailer or mobile home.

(c)

Disposal of abandoned vehicles. The provisions of Wis. Stats. § 342.40, are hereby adopted and incorporated herein by reference for the disposal of all abandoned vehicles.

(d)

Reserved.

(e)

Reserved.

(f)

Owner responsible for impoundment and sale costs. The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not recovered for the sale of the vehicle may be recovered in a civil action by the city against the owner.

(g)

Sale to bar claims against vehicle. The sale of a motor vehicle under the provisions of this section shall forever bar all prior claims thereto and interest therein except as provided in this section.

(h)

Owner may file. At any time within two years after the sale of a motor vehicle, as provided in this section, any person claiming ownership of such motor vehicle or a financial interest therein, may present a claim to the common council setting forth such facts as are necessary to establish such ownership or interest, and that the failure of the claimant to reclaim the vehicle prior to sale was not the result of the neglect or fault of claimant. If the council is satisfied as to the justice of such claim, it may allow the claim, but in no case shall the amount allowed exceed the sum paid into the municipal treasury as the result of the sale of such motor vehicle, nor the amount of interest of the claimant therein.

(i)

Exceptions. The provisions of this section do not apply to automotive sales or repair businesses nor to junkyards or auto salvage yards that are licensed under this chapter.

(Code 1974, § 22.06; Ord. No. 02-34, § 1, 11-6-2002)

Cross reference— Traffic regulations, ch. 150.

Sec. 78-7. Tree or plant diseases.

(a)

Declaration of public nuisance. The existence of trees, shrubs and other flora within the city are determined to be valuable public and private assets which substantially enhance the public welfare and are aesthetically significant and economically important in terms of increased value which accrue to public and private lands as a result of their existence. The continued existence of injured or diseased trees or other plantings, or the failure to properly treat the same if treatment is available, which is likely to cause the spread of disease or endanger persons because of the deteriorated condition, is hereby declared to be a public nuisance requiring abatement.

(b)

Examples. The following conditions are exemplary, but not an inclusive list, of matters declared to be public nuisances under this section:

(1)

Any dead tree.

(2)

Any elm tree infected with the Dutch elm disease fungus or which harbors any carrier of the same.

(3)

Any oak tree infected with the oak wilt fungus or which harbors any carrier of the same.

(4)

Any tree, bush, shrub or other plant which is infected with an insect or disease capable of infecting other plants.

(c)

Abatement procedure.

(1)

Notice. If the city forester determines that a dead or diseased tree or plant exists on any private property in violation of this section, a notice may be issued, in writing, by the forester to the property owner directing, as appropriate, that such tree or plant be removed or treated as therein specified to protect surrounding trees or plants. A notice issued under this section shall provide a reasonable period of time, which shall not be less than 72 hours, within which to perform. The notice shall also state that the existence of the facts which gave rise to the notice constitute a public

nuisance which may be abated by the city upon failure of the property owner to comply with the terms of the notice.

(2)

Court proceedings. If the corrective action set forth in the notice is not taken by the property owner within the time set forth in the notice, and likelihood that other trees or other plants will be infected, damaged or destroyed, or that persons will be injured, the city forester shall request the commencement of a nuisance abatement action under Wis. Stats. ch. 823.

(3)

Summary abatement. If, in the judgment of the city forester, delay is likely to cause injury to persons or the spread of disease to other trees or plants, then the city forester may enter upon the property and take all necessary action including, but not limited to, trenching to separate root systems, inoculation or other treatment, or removal of the nuisance.

(4)

Appeal. Appeal from the determination of the city forester as contained in any order under this section shall be to the board of park commissioners in accordance with the procedures set forth in Wis. Stats. ch. 68. A written request for an appeal shall be made in writing within ten days of the date of delivery of the notice. An appeal shall not delay the right of the city forester to summarily abate the nuisance as set forth in subsection (c)(3) of this section, but a ruling of such appeal in favor of the property owner shall relieve the owner of any obligation to pay the costs of such summary abatement.

(5)

Costs. Costs of judicial abatement of any nuisance under this section shall be taxed and collected pursuant to Wis. Stats. ch. 823. Costs of summary abatement shall be invoiced to the property owner and collected as a debt or, if permitted by law, may be assessed against the real estate and collected as a special tax against the property.

(Code 1974, § 22.07; Ord. No. 05-40, § 4, 10-18-2005)

Sec. 78-8. Graffiti prohibited.

(a)

Generally. No person shall mark, draw, etch, or write with paint, ink, or other substance, onto the physical property of another without the other's consent.

(b)

Penalty.

(1)

In addition to any restitution which may be ordered paid by the court, any person convicted of violating this section shall forfeit not less than \$200.00 nor more than \$1,000.00 per violation.

(2)

In accordance with Wis. Stats. 895.035(2g) the parent or parents with custody of a minor child are liable for the cost of the repair or the replacement of, or the removal of such etching, marking, drawing, or writing from, property damaged as the result of a violation of an ordinance that prohibits intentional etching or marking, drawing, or writing with paint, ink, or other substance on the physical property of another without the other's consent.

(c)

Abatement. Graffiti shall be removed by the property owner or, if the owner fails to do so within five days of notice thereof, by the city at the property owner's expense. The director of public works may order graffiti removed within a time certain. If a property owner fails to remove graffiti within the time specified in the order, the director of public works may cause the graffiti to be removed. The director of public works shall keep an accurate account of the expenses thereof and report the same to the city clerk-treasurer, who shall annually prepare a statement of the expense so incurred on each lot or parcel of land. The amount charged to each lot or parcel of land shall be entered in the tax roll as a special tax against said lot or parcel of land, and shall be collected in all respects like other taxes upon real estate.

(Ord. No. 02-27, § 1, 8-20-2002)

Sec. 78-9. Chronic nuisance premises.

(a)

Findings. The common council finds that any premises that has generated three or more calls for police service for nuisance activities has received more than the level of general and adequate police service and has placed an undue and inappropriate burden on the taxpayers of the city. The common council therefore directs the chief of police, as provided in this section, to charge the owners of such premises the costs associated with abating the violations at premises at which nuisance activities chronically occur.

(b)

Definitions. The following terms shall be defined as follows in this provision.

(1)

Chief. The chief of police or the chief's written designee.

(2)

Enforcement action. Arrest, the issuance of a citation, or the issuance of a written or verbal warning.

(3)

Nuisance activity. Any of the following activities, behaviors, or conduct occurring on a premises:

- a. An act of harassment, as defined in § 947.013, Wis. Stats.
- b. Disorderly conduct, as defined in § 947.01, Wis. Stats.
- c. Battery, substantial battery, or aggravated battery, as defined in § 940.19, Wis. Stats.
- d. Lewd and lascivious behavior, as defined in § 944.20, Wis. Stats.
- e. Prostitution offenses, as defined in § 944.30 or § 944.34 Wis. Stats.
- f. Littering, as defined in [§ 8-9](#) De Pere Municipal Code.
- g. Theft, as defined in § 943.20, Wis. Stats.
- h. Receiving stolen property, as defined in § 943.34, Wis. Stats.
- i. Arson, as defined in § 943.02, Wis. Stats.
- j. Possession, manufacture, or delivery of a controlled substance or related offenses, as defined in Ch. 961, Wis. Stats.
- k. Gambling, as defined in § 945.02, Wis. Stats.
- l. Animal violations, as defined in [Ch. 86](#), De Pere Municipal Code.
- m. Trespass to land, as defined as §§ 943.13 and 943.14, Wis. Stats.
- n. Weapons violations as defined in [§ 8-2](#) De Pere Municipal Code.
- o. Noise violations as defined in [Chapter 146](#) De Pere Municipal Code.
- p. Violation of curfew for minors, as defined in [§ 8-15](#) De Pere Municipal Code.

- q. Loitering, as defined in § 8-18.1 De Pere Municipal Code.
- r. Truancy, as defined in § 8-20 De Pere Municipal Code.
- s. Alcohol violations, as defined in Chapter 122, De Pere Municipal Code and § 125.07 Wis. Stats.
- t. Obstructing or Resisting an Officer, as defined in §946.41 Wis. Stats.
- u. Misuse of emergency telephone numbers as defined in § 941.35 Wis. Stats.
- v. Any act of being party to a crime, as defined in § 939.05 Wis. Stats., any of the activities in paragraphs a—I above.
- w. Any conspiracy to commit, as defined in § 939.31 Wis. Stats. or attempt to commit, as defined in § 939.32 Wis. Stats., any of the activities in paragraphs a—m above.
- x. The execution of arrest or search warrants at a particular location.
- y. City of De Pere inspection-related calls where the police department responds.

(4)

Owner. The owner of the premises or the owner's agent who has been given written authority by the owner to enter into binding agreements concerning the nuisance premises.

(5)

Premises. An individual dwelling unit, an apartment building (all units included as one premises), or an individual business premises and associated common areas.

(c)

Notice. Whenever the chief determines that three or more nuisance activities resulting in enforcement action have occurred at a premises during a 12-month period, the chief may notify the premises owner in writing. In calculating the requisite nuisance activities, the chief may count separate qualifying nuisance incidents resulting in enforcement action occurring on the same day (as long as they are distinct in time) or different days, but shall never count nuisance activities that were

reported by the owner of the premises. The chief may also consider whether there has been an effective change in ownership of the premises in calculating occurrences of nuisance activity. The notice shall contain the street address or legal description sufficient to identify the premises, a description of the nuisance activities that have occurred at the premises, a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to the appeal rights of the owner. The notice shall be delivered as set forth below.

(d)

Notice procedure. Notice shall be deemed to be properly delivered if sent either by first class mail to the premises owner's last known address or if delivered in person to the premises owner. If the premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's usual place of abode in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first class mail to the last known address of the owner as identified by the records of the city assessor.

(e)

Abatement plan. Any owner receiving such notice as set forth above shall meet with the chief, or his/her designee within five days of receipt of such notice. The parties shall review the problems occurring at the property. Within ten days of this meeting, the owner, chief and property tenant, shall meet and discuss an abatement plan, prepared by the property owner, to address and eliminate the nuisance activity on the property. If the tenant is unable or unwilling to meet on such plan, the chief and property owner shall nonetheless meet to discuss such abatement plan. The chief shall provide a written copy of the plan to the tenant. The plan shall also specify a name, address, and telephone number of a person living within 60 miles of the property who can be contacted in the event of further police, fire, or inspection contact.

(f)

Additional nuisance activity. Whenever the chief determines that additional nuisance activity has occurred at a premises for which notice has been issued as set forth above, that this nuisance activity has occurred not less than 15 days after notice has been issued, and that reasonable efforts have not been made to abate the nuisance activity, the chief may calculate the cost of police response and enforcement for this and any subsequent nuisance activities and cause such charges and administrative costs to be assessed and collected as a special charge.

(g)

Appeal. Appeal of the determination of the chief of police that the property is a chronic nuisance property, may be submitted to the common council within ten days of notice. Chapter 68, Wisconsin Statutes, shall not apply to such an appeal.

(h)

First offense. Any person who shall violate any provision of this chapter or any regulation, rule, or order made hereunder shall forfeit not less than \$1.00 or more than \$1,000.00.

(i)

Subsequent offenses. Any person who shall violate any provision of this chapter or any regulation, rule, or order made hereunder within 24 months after committing a previous violation of this chapter shall forfeit not less than \$200.00 nor more than \$2,000.00.

(Ord. No. 07-13, § 1, 6-5-2007; Ord. No. 13-17, § 11, 8-20-2013)
