

CHAPTER 28

PUBLIC NUISANCES
(Rep. & Rec. GO 12-03)

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**SUBCHAPTER I
GENERAL PROHIBITION**

28.101 **PUBLIC NUISANCES PROHIBITED**. No person shall erect, contrive, cause, continue, maintain, or permit to exist any public nuisance within the City.

**SUBCHAPTER II
PUBLIC NUISANCE DEFINED**

28.201 **GENERAL DEFINITION**. A public nuisance is a thing, act, occupation, condition, or use of property which continues for such length of time as to:

1. Substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public; or
2. In any way render the public insecure in life or in the use of property; or
3. Greatly offend the public morals or decency; or
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, or the use of public property.

28.202 **STATUTORY NUISANCE**. Any thing, act, occupation, condition, or use of property which has been defined by the Wisconsin Statutes as a public nuisance is a public nuisance under this Chapter.

28.203 **CONTINUING ORDINANCE VIOLATION**. Any violation of the Green Bay Municipal Code that is not corrected within a reasonable time after notice from the City to a responsible party is a public nuisance.

28.204 **PUBLIC NUISANCES AFFECTING HEALTH**. The following acts, omissions, places, conditions, and things are specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances within the definition of this chapter:

1. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
2. Carcasses of animals, bird, or fowl not intended for human consumption or food which are 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 materials whatsoever in which flies, mosquitoes, disease-carrying insects, rats, or other vermin may breed.
4. Standing water at any point on any property within the City, except water impounded on farm land for agricultural purposes.

5. Privy vaults and garbage cans which are not fly-tight.
6. All noxious weeds and other rank growth of vegetation.
7. All animals running at large.
8. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust, or other atmospheric pollutants within the City limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensitiveness or to threaten or cause substantial injury to property in the City.
9. The pollution of any public well or cistern, stream, lake, canal, or other body of water by sewage, creamery, or industrial wastes or other substances.
10. Any use within the City of property, substances, or things emitting or causing any foul, offensive, noxious, or disagreeable odors, gases, 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.
11. Any use of property which causes any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk, or public place within the City.
12. The construction and operation of a tank or tanks for the storage of tallow in the City whereby nauseous, offensive, or unwholesome odors are allowed to be emitted.

28.205 **PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.** The following acts, omissions, places, conditions, and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety within the provisions of this chapter.

1. All signs, 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.
2. All buildings and structures erected, repaired, or altered within the City in violation of the provisions of any ordinance relating to materials and manner of construction.
3. All unauthorized signs, signals, markings, or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as official traffic control devices or railroad signs or signal or which, because of their color, location, brilliance, or manner of operation, interfere with the effectiveness of any such device, sign, or signal.
4. All trees, hedges, billboards, or other obstructions which prevent persons driving vehicles on public streets, alleys, or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
5. All use or display of fireworks, except as provided by State law and City ordinances.
6. All buildings or structures so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human use.

7. All loud, discordant, and unnecessary noises or vibrations of any kind.

8. All obstructions of streets, alleys, sidewalks, or crosswalks and all excavations in or under the same, except as permitted by City ordinance; or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished.

9. All open and unguarded pits, wells, excavations, or unused basements freely accessible from any public street, alley, or sidewalk.

10. 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 or people to gather, thereby obstructing traffic and free use of the streets or sidewalks.

11. All exhibitions within the City of a motion picture, show, or other presentation at an outdoor drive-in theater which motion picture, show, or other presentation in whole or in part depicts nudity, sexual conduct, or sado-masochistic abuse, as defined in §944.25, Wis. Stats., in such a manner that the material is visible from any public street, sidewalk, thoroughfare, or other public place where it may be observed by minors or unconsenting adults and which, due to its content, creates traffic and parking problems on City streets or creates violations of Section 8.12, Green Bay Municipal Code. For the purposes of this section, a motion picture rating "X" by the film industry shall be prima facie evidence that the film in whole or in part depicts nudity, sexual conduct, or sado-masochistic abuse and is, therefore, in violation of this chapter.

12. All use or maintenance of building exteriors or surrounding premises which limits the use or enjoyment of neighboring property or which causes or tends to cause diminution of the value of the property of others in the neighborhood in which such premises is located by reason of:

a. Exterior storage of scrap lumber, junk, trash, or other debris, including, without limitation of enumeration, discarded objects or equipment such as motor vehicles, furniture, appliances, farm or manufacturing equipment, building materials, or litter as defined in Section 8.12, Green Bay Municipal Code.

b. Exterior patchwork, repair, or reconstruction that results in a multi-textured or multi-colored effect or appearance not consonant with the decor, architectural design, or aesthetics of the rest of such building.

13. Any placement or diverting of any unreasonable amount of snow or ice onto the property of another which is so situated as to endanger the public health or safety or creates an unnecessary physical or financial burden.

SUBCHAPTER III NUISANCE ABATEMENT

28.301 **SUMMARY ABATEMENT**. If an officer determines that a public nuisance exists and that there is an imminent danger to public health, safety, peace, morals, or decency, notice to abate the nuisance may be issued and served by the officer pursuant to Section 28.304, Green Bay Municipal Code. The notice shall order abatement of the nuisance within a period not less than 24 hours or greater than seven calendar days and shall state that unless the nuisance is so abated, the City will cause the same to be

abated and will charge the cost thereof to the owner, occupant, or person causing, maintaining, or permitting the nuisance; and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

28.302 **NONSUMMARY ABATEMENT.** (Rep. & Rec. GO 19-06) If an officer determines that a public nuisance exists but that the nature of such nuisance is not such as to threaten imminent danger to the public health, safety, peace, morals, or decency, notice to abate the nuisance may be issued and served by the officer pursuant to Section 28.304, Green Bay Municipal Code. If the public nuisance activity involves felony drug type conduct, a notice to abate the nuisance shall be mandatory. The notice shall order abatement of the nuisance within a period not less than 15 calendar days and shall state that unless the nuisance is so abated, the City will cause the same to be abated and will charge the cost thereof to the owner, occupant, or person causing, maintaining, or permitting the nuisance; and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

28.303 **ABATEMENT PLAN.** (Rep. & Rec. GO 19-06) If an officer determines that a public nuisance exists but that the nature of such nuisance is not such as to threaten imminent danger to the public health, safety, peace, morals, or decency, the officer may order the owner, occupant, or person causing, maintaining, or permitting the nuisance to appear for a hearing to discuss abatement of the nuisance. If the public nuisance activity involves felony drug type conduct, the officer shall order the owner, occupant, or person causing, maintaining, or permitting the nuisance to appear for a hearing to discuss abatement of the nuisance. The hearing shall include the officer and a representative of the Law Department. Notice of the hearing shall be issued and served by the officer pursuant to Section 28.304, Green Bay Municipal Code. The parties may formulate an abatement plan which indicates the measures to be taken by the owner, occupant, or person causing, maintaining, or permitting the nuisance to abate the nuisance.

28.304 **NOTICE TO ABATE.** The officer may attempt personal service on the owner, agent of the owner, occupant or other person causing, maintaining or permitting the nuisance at such person's last-known address. If this attempt is unsuccessful or impractical, the officer shall post a copy of the notice in a conspicuous place in or about the building where the nuisance exists and send notice by first class mail to the last-known address of the owner or agent of the owner.

28.305 **REMEDY FROM ABATEMENT ORDER.** Any person affected by an order under Sections 28.301 or 28.302, Green Bay Municipal Code, shall, prior to the abatement date, apply to the circuit court for an order restraining the City from entering on the premises and abating or removing the nuisance, or be forever barred.

28.306 **NON-ABATEMENT PROHIBITED.**

1. **FAILURE TO COMPLY WITH ORDER TO ABATE.** No person shall fail to comply with a lawful order to abate a public nuisance issued pursuant to this section. Each day of non-compliance with a lawful order to abate issued pursuant to this section is a separate violation.

2. **FAILURE TO APPEAR FOR HEARING.** No person shall fail to comply with an order to appear for an abatement hearing pursuant to Section 28.303, Green Bay Municipal Code.

3. **FAILURE TO OBSERVE ABATEMENT PLAN.** No person shall fail to comply with the terms of an abatement plan.

28.307 **ABATEMENT BY COURT ACTION**. If an officer determines that a public nuisance exists, the officer may refer the nuisance to the Law Department for review. If the City Attorney determines that alternative enforcement methods have failed to abate the nuisance or would be ineffective in doing so, the Law Department may cause an action to abate such nuisance to be commenced in the name of the City in the Circuit Court of Brown County in accordance with the provisions of the Wisconsin Statutes.

28.308 **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 State law.

28.309 **ENFORCEMENT**. For the purposes of this Chapter, “officer” shall mean the Chief of Police, the Fire Chief, the Superintendent of Inspection, and their designees. These officers shall enforce the provisions of this chapter that come within the jurisdiction of their offices; and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under Sections 28.301 or 28.302, Green Bay Municipal Code, to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and is satisfied that a nuisance does in fact exist.

SUBCHAPTER IV
CHRONIC NUISANCE PREMISES
(Amd. GO 62-04)

28.401 **DEFINITIONS**. The following terms shall be defined as follows in this subchapter.

1. **Chief**. The Chief of Police or his or her designee.
2. **Enforcement Action**. (Amd. GO 42-06) Arrest, the issuance of a citation, or the issuance of a written or verbal warning.
3. **Nuisance Activity**. (Rep. & Rec. GO 22-06) 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, as defined in §944.30, Wis. Stats.
 - f. Theft, as defined in §943.20, Wis. Stats.
 - g. Receiving Stolen Property, as defined in §943.34, Wis. Stats.
 - h. Arson, as defined in §943.02, Wis. Stats.

- i. Possession, Manufacture, or Delivery of a Controlled Substance or related offenses, as defined in Ch. 961, Wis. Stats.
 - j. Gambling, as defined in §945.02, Wis. Stats.
 - k. Animal violations, as defined in Ch. 8, Green Bay Municipal Code.
 - l. Trespassing, as defined in §943.13 and §943.14, Wis. Stats.
 - m. Weapons violations, as defined in Section 27.17, Green Bay Municipal Code.
 - n. Noise violations, as defined in Section 27.201, Green Bay Municipal Code.
 - o. 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, behaviors, or conduct enumerated in subdivisions 3.a. through n. above.
 - p. The execution of arrest or search warrants at a particular location.
 - q. Alcohol violations, as defined in Chapter 33, Green Bay Municipal Code, and §125.07, Wis. Stats.
 - r. Obstructing or Resisting an Officer, as defined in §946.41, Wis. Stats.
 - s. City of Green Bay Inspection-related calls where the Police Department responds.
4. Owner. The owner of the premises and his or her agents.
5. Premises. (Amd. GO 34-06) An individual dwelling unit, an apartment building (all units included as one premises), or an individual business premises and associated common areas.

28.402 **NOTICE**. (Rep. & Rec. GO 22-06) 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 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 pursuant to Section 28.304, Green Bay Municipal Code.

28.403 **ABATEMENT PLAN**. Any owner receiving notice pursuant to Sec. 28.402 shall meet with the Chief, or his/her designee, within 5 days of receipt of such notice. The parties shall review the problems occurring at the property. Within 10 days of this meeting, the owner shall submit to the Chief, or his/her designee, an abatement plan to end the nuisance activity on the property. 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.

28.404 **ADDITIONAL NUISANCE ACTIVITY.** (Amd. GO 26-05) Whenever the Chief determines that additional nuisance activity has occurred at a premises for which notice has been issued pursuant to Section 28.402, Green Bay Municipal Code, 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.

28.405 **APPEAL.** Appeal of the determination of the Chief of Police pursuant to either Sections 28.402 or 28.403, Green Bay Municipal Code, may be submitted to the Protection and Welfare Committee. Chapter 68, Wisconsin Statutes, shall not apply to such an appeal.

SUBCHAPTER V PENALTIES

28.501 **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 nor more than \$1,000.

28.502 **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 nor more than \$2,000.