

Sec 10.07 Abatement Of Public Nuisances

- (a) *Enforcement.* It shall be the duty of the Chief of Police, the Fire Chief, the Building Inspector, the City Forester and the Health Officer to enforce those provisions of this chapter that come within the jurisdiction of their respective offices, including the issuance of citations, and they shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does, in fact, exist. The inspecting officer shall make a written report of his or her findings to the Mayor. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises.
- (b) *Summary Abatement.*
- (1) *Notice to Owner.* If the inspecting officer shall determine that a public nuisance exists within the City and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Mayor may direct the Chief of Police to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within 24 hours and shall state that unless such nuisance is so abated, the City shall cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
 - (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 officer having the duty of enforcement shall cause the abatement or removal of such public nuisance.
- (c) *Non-Summary Abatement.* If the inspecting officer determines that a public nuisance was created or is being maintained and there is not a great and immediate danger to the public health, safety, peace, morals, or decency, the Mayor may direct the Chief of Police to proceed under this Section 10.07(c).
- (1) *Issuing and Order.* The Chief of Police may serve an order to a person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of said order on the premises. Such order shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within 15 days from its date of delivery and shall state that unless such 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, permitting or maintaining the nuisance, as the case may be.
 - (2) *Private Abatement.* The recipient of an order must abate the public nuisance referred to in the order within 15 days of its date of delivery. If abating a public nuisance within that timeframe would present a particularized hardship on the recipient of the order, the recipient may submit a written statement to the Chief of Police detailing the hardship and requesting an extension. Such written statement must be received by the Police Chief prior to the expiration of the time for the recipient to lawfully abate the public nuisance. For clarity, recipients requesting an extension have no right to receive an extension. The Chief of Police, or their designee, has discretion to grant or deny any extension for any lawful reason. If a written response to a request for an extension is not sent within 3 days following its receipt by the Chief of Police, the request is deemed denied. If the Chief of

Police, or their designee, grants an extension, the applicable time to file an action contesting the notice pursuant to Section 10.07(c)(3) is extended to the same date the extension is granted through. If the specific public nuisance to be abated is that of Section 10.05(h) (Dilapidated Buildings), the 15 day time period to abate the public nuisance is increased to at least 30 days.

- (3) *Pre-Abatement Contest.* Each recipient of a notice served pursuant to this Section 10.07(c) must commence an action pursuant to this Section 10.07(c)(3) in the Iowa County Circuit Court to prohibit the Police Chief from abating the public nuisance, and must commence such action within 15 days from the date of delivery of the order, or any such claim will forever be barred. If contested, the City will bear the burden of proof on the question of whether the recipient caused, permitted, or maintained a public nuisance. If such action is timely commenced in the Iowa County Circuit Court, the City must not abate the public nuisance during its pendency, including any applicable time for an appeal, unless authorized by a court or the recipient to abate the public nuisance. If the recipient prevails in the action, the court may order that the Chief of Police must not abate the particular public nuisance pursuant to the particular order contested, but the court must not order any compensatory or punitive damages or other equitable relief. The City of Dodgeville elects not to be governed by Wis. Stats. Ch. 68, instead, this contest procedure must be employed as the exclusive remedy for an addressee of an order given pursuant to this Section 10.07(c). For clarity, the regular rules of civil procedure applicable to civil actions will apply to actions under this Section 10.07(c)(3).
 - (4) *Public Abatement.* Upon the expiration of the time to commence an action in the Iowa County Circuit Court pursuant to Section 10.07(c)(3), and if the public nuisance described in the order is not already abated, the Police Chief, or their designee, may abate the public nuisance referred to in the order. For clarity, the Police Chief, or their designee, may abate a public nuisance either by themselves or through any other available governmental entity, or by contract or other arrangement with a private person or entity. Also for clarity, the Police Chief, or their designee, is authorized to enter the premises containing the public nuisance for the purpose of abating the public nuisance, and such authority includes the ability to authorize other people to do the same.
 - (5) *Finality.* If an action is not commenced in the Iowa County Circuit Court pursuant to Section 10.07(c)(3), then the order is deemed to be lawful.
 - (6) *Additional Contest Rights.* The Police Chief may permit additional persons than the recipient of an order served pursuant to Section 10.07(c) to employ the contest procedures of Section 10.07(c)(3) by so indicating in an order. Such additional persons will have the same contest rights and obligations as a recipient of an order.
 - (7) *Public Abatement Limitation Period.* The Police Chief, or their designee, shall not abate any public nuisance under the authority of a given order unless he or she abates the public nuisance within 6 months following the date by which a contest must be commenced under Section 10.07(c)(3). The 6 month period will be extended for the duration of any legal proceedings challenging the order, including the applicable time for an appeal.
- (d) *Abatement by Court Action.* If the inspecting officer shall determine that a public nuisance exists on private premises, but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he or she may serve notice on the person causing or maintaining the nuisance and the owner of the property to remove the same within 10 days. If such nuisance is not removed within 10 days, he shall report such fact to the Mayor, who may direct the City Attorney to commence an action in Iowa County Circuit Court for the abatement of the nuisance.

- (e) *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, nor as prohibiting an action to be commenced in the Circuit Court seeking a forfeiture as provided in sec. 10.15 of this chapter.
- (f) *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, 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.
- (g) *Severability.* Any part of this Section 10.07 is severable. If any provision, section, sentence, clause, phrase, or portion thereof is held invalid, any other provision, section, sentence, clause, phrase, or portion will not be affected thereby. If the application of any provision, section, sentence, clause, phrase, or portion to any person or circumstance is held invalid, the application of other provisions, sections, sentences, clauses, or portion of such ordinance to other persons or circumstances will not be affected thereby. It is declared the intent of this Section 10.07, that the same would have been adopted had such invalid parts, if any, not been included herein.