

ORDINANCE NO. 29

chle -
amended
Ord. #57 (attached)

AN ORDINANCE DEFINING NUISANCES; PROVIDING FOR THEIR ABATEMENT; PRESCRIBING PENALTIES; AND DECLARING AN EMERGENCY.

REPEALED 5/13/08
SEE ORD. 213

The City of Detroit ordains as follows:

Definitions

29-1 Definitions. As used in this ordinance the singular includes the plural and the masculine includes the feminine. Except where the context indicates otherwise, the following shall mean:

- 29-1(1) Person in charge of property. Any agent, occupant, lessee, contract purchaser, or person, other than the owner, having the possession or control of property.
- 29-1(2) City. The City of Detroit
- 29-1(3) Council. The governing body of the city.
- 29-1(4) Person. Every natural person, firm, partnership, association or corporation.
- 29-1(5) Public place. Any building, place or accommodation, whether publicly or privately owned, open and available to the public.

Animals

29-2 Communicable Disease. No person shall permit any animal or bird owned or controlled by him to be at large within the city if such animal or bird is afflicted with a communicable disease.

amended by
Ord. #74 (attached)

29-3 Animals running at large. No owner or person in charge of any livestock or animal, wild or domesticated, shall permit such animal to run at large in the city.

29-4 Removal of Animal Carcasses. No person shall permit any animal carcass owned by him or under his control to remain upon the public streets or places or exposed on private property, for a period of time longer than is reasonably necessary to dispose of such carcass.

29-5 Livestock and Poultry.

29-5(1) No person shall keep or maintain any horse, cow or hog, or maintain a slaughterhouse or tannery in the city. This subsection shall not apply to such animals being transported for commercial purposes.

29-5(2) No person shall maintain a structure or house poultry or fowl, or keep or maintain poultry or fowl, within 50 feet of any street or within 50 feet of a dwelling of another. No owner or person in charge of any fowl or poultry shall permit such fowl or poultry to run at large. Fowl and poultry shall be kept in an enclosure and shall be properly caged, fenced or housed and maintained in a clean, sightly and sanitary condition at all times. All accumulations or droppings and materials soiled by waste shall be collected frequently and disposed of in such manner as to prevent and eliminate fly-breeding and nuisance conditions.

29-5(3) Any nuisance described in this section may be abated as provided in Sections 19 through 22 of this ordinance.

Nuisances Affecting the Public Health

29-6 Nuisances Affecting the Public Health. The following are hereby declared to be nuisances affecting the public health and may be abated in the manner prescribed by Sections 19 through 22 of this ordinance.

- 29-6(1) Privies. Any open vault or privy, except those privies used in connection with construction projects and constructed in accordance with the Oregon State Board of Health regulations.
- 29-6(2) Debris on private property. All accumulations of debris, rubbish, manure and other refuse located on privately owned real property which have not been removed within a reasonable time and which affect the health, safety or welfare of the city.
- 29-6(3) Stagnant water. Any pool of water which is without a proper inlet or outlet and which, if not controlled, will be a breeding place for mosquitoes and other similar insects.
- 29-6(4) Water pollution. The pollution of any body of water, stream or river by sewage, industrial wastes or other substances placed in or near such water in a manner that will cause harmful material to pollute the water.
- 29-6(5) Food. All decayed or unwholesome food offered for human consumption.
- 29-6(6) Odor. Any premises which are in such state or condition as to cause a noisome or offensive odor or which are in an unsanitary condition.

Nuisances Affecting the Public Safety

29-7 Nuisances Affecting the Public Safety. The following are hereby declared nuisances affecting the public safety of person and or property.

- 29-7(1) No person shall leave in any place accessible to children any abandoned, unattended or discarded ice box, refrigerator or similar container which has an air-tight door with a snap lock or lock or other mechanism which may not be released for opening from the inside without first removing such lock or door from such ice box, refrigerator or similar container.
- 29-7(2) No person shall shoot firearms within the city limits. For the purpose of this Section, high velocity air rifles and pistols, and high pressure pneumatic guns of all types, are classed as firearms.
- 29-7(3) Lethol. weapons

Attractive Nuisances

29-8 Attractive Nuisances.

- 29-8(1) No owner or person in charge of any premises shall permit:
 - 29-8(1)(a) Any machinery, equipment or other devices on such premises which are attractive and dangerous to children and which are accessible to children.
 - 29-8(1)(b) The piling of any lumber, logs or piling in such manner as to be attractive and dangerous to children and which is accessible to children.
 - 29-8(1)(c) Any excavation to remain open for an unreasonable length of time without erecting proper safeguards or barriers to prevent such excavation from being used by children.
- 29-8(2) The provisions of this section shall not apply to authorized construction projects provided that during the course of construction reasonable safeguards are maintained to prevent injury or death to playing children.
- 29-8(5) Any nuisance described in this Section may be abated as provided in Sections 19 through 22 of this ordinance.
- 29-9 Duty to Clean Sidewalks. No owner or person in charge of any premises, improved or unimproved, abutting upon any public sidewalks, shall permit:

- 29-9(1) Leaves, rubbish, dirt and other litter or obstructions on such sidewalks. The provisions of this subsection shall not apply to authorized construction projects provided that during the course of construction reasonable safeguards are maintained to prevent injury or death to persons.
- 29-9(2) Snow to remain on such sidewalks for a periods longer than the first two hours of daylight after the snow has fallen.
- 29-9(3) Such sidewalk to be covered with ice. It shall be the duty of any such person, within the first two hours of daylight after the ice has formed, to remove any ice accumulating on such sidewalk or to properly cover it with sand, ashed or other suitable materials to assure safe travel.

29-10 Trees, Shrubs and Weeds.

- 29-10(1) No owner or person in charge of any real property shall permit upon such property, improved or unimproved, or upon any parkway or sidewalk area abutting such property, any weeds, grass or other noxious growth. It shall be the duty of every owner or person in charge of such property to cut down or otherwise to destroy any noxious growth on such property or parkway or sidewalk area abutting thereon as often as necessary to prevent such growth from being unsightly or a fire hazard, or maturing or going to seed.
- 29-10(2) Nothing in this section shall be construed to prohibit lawns, bushes, trees and other shrubery grown or maintained for ornamental purposes nor shall it prohibit the growth or maintenance of any vegetation designed for food or fuel purposes, except that the owner or person in charge of any real property shall not permit the limbs of any shrub or tree projecting into or extending over the street to interfere with the use of the sidewalk or roadway, or to obstruct a driver's view of an intersection or traffic upon streets approaching an intersection or otherwise to constitute a hazard to the public. Trees shall be trimmed so that the minimum clearance of any overhanging portion thereof is eight feet above the sidewalk and 10 feet above the roadway. Trees, hedges and other shrubery on corner lots shall be trimmed and maintained so as to permit the minimum vision clearance prescribed by the zoning ordinance.
- 29-10(3) Weeds, grass or other noxious growth, and obstructing or hazardous trees and shrubs prohibited in this section are hereby declared to be a nuisance and may be abated as provided in Sections 19 through 22 of this ordinance.

29-11 Scattering Rubbish. No person shall throw or deposit upon any street, alley or other public place, any injurious or offensive substance which would mar the appearance, create a stench or detract from the cleanliness or safety of such public place, or would be likely to injure any animal, vehicle or person traveling upon such public way.

29-12 Fences.

- 29-12(1) No owner or person in charge of property shall construct or maintain any barbed-wire fence or allow barbed wire to remain a part of any fence which borders on a street or sidewalk.
- 29-12(2) No person shall install, maintain or operate an electric fence within the city.

29-13 Surface Waters, Drainage. No owner or person in charge of any building or structure shall permit rain water, ice, or snow to fall from any such building or structure onto a street or sidewalk or to flow across a sidewalk; and every such owner or person in charge of property shall at all times keep and maintain in a proper state of repair adequate drainpipes or a drainage

system so that overflow water accumulating on the roof or about such building will not be carried across or upon any sidewalk.

Nuisances Affecting the Public Peace

- 29-14 Radio and Television Interference. No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes interference with radio or television reception, if the radio or television receiver interfered with is of good engineering design and the interfering electrical or other device is capable of interference elimination by reasonable repairs, adjustments or alterations. This section shall not apply to electrical and radio devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission.
- 29-15 Unnecessary Noise.
- 29-15(1) No person shall make or assist in making any loud, disturbing or unnecessary noise which either annoys, disturbs, injures or endangers the comfort repose, health, safety or peace of other.
- 29-15(2) The following acts are declared to be loud, disturbing and unnecessary noises in violation of this section but the enumeration shall not be construed to be exclusive:
- 29-15(2)(a) The keeping of any bird or animal which by causing frequent or long continued noise shall disturb the comfort and repose of any person in the vicinity.
- 29-15(2)(b) The attaching of any bell to any animal or allowing a bell to remain on any animal which is disturbing to any person in the immediate vicinity.
- 29-15(2)(c) The use of any vehicle or engine, either, stationary or moving, so out of repair, loaded or operated as to create any loud or unnecessary grating, grinding, rattline or other noise.
- 29-15(2)(d) The sounding of any horn or signalling device on any vehicle on any street or public or private place, except as a necessary warning of danger.
- 29-15(2)(e) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, or as a warning of danger, or upon request of proper city authorities.
- 29-15(2)(f) The use of any mechanical device operated by compressed air, steam or otherwise, unless the noise thereby created is effectively muffled.
- 29-15(2)(g) The erection, including excavation, demolition, alteration or repair of any building in residential districts, other than between the hours of 7:00 a.m. and 10:00 p.m. daily, except Sundays and holidays when the hours shall be 10:00 a.m. to 8:00 p.m., except in case of urgent necessity in the interest of the public welfare and safety, and then only with a permit granted by the city recorder for a period not to exceed 10 days. Such permit may be renewed for periods of five days while such emergency continue to exist. If the city recorder determines that the public health, safety and welfare will not be impaired by the erection, demolition, alteration or repair of any building between the hours of 10:00 p.m. and 7:00 a.m. and if he shall further determine that loss or inconvenience would result to any person unless such work were permitted within those hours he may grant permission for such work to be done between the hours of 10:00 p.m. to 7:00 a.m. upon application therefor being made at the time the permit for the work is awarded or during the progress of the work.

- 29-15(2)(h) The use of any gong or siren other than by public officers for authorized purposes or on a police, fire or other emergency vehicle.
- 29-15(2)(i) The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court of justice while the same are in use, or adjacent to any hospital or institution for the care of the sick or infirm, which unreasonably interferes with the operation of such institution, or which disturbs or unduly annoys patients.
- 29-15(2)(j) The discharge in the open air of the exhaust of any steam engine, internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises and the emission of annoying smoke.
- 29-15(2)(k) The use or operation of any automatic or electric piano, phonograph, gramophone, victrola, radio, television, loudspeaker or any instrument for sound producing or any sound amplifying device so loudly as to disturb persons in the vicinity thereof or in such a manner as renders the use thereof a nuisance; provided however, that upon application to the council permits may be granted for the broadcast or amplification for the broadcast of programs of music, speeches, or general entertainment as a part of a national, state or city event, public festivals or outstanding events of a noncommercial nature, provided that such broadcast or amplification shall not be audible for a distance of more than 1,000 feet from the instrument, speaker or amplifier, and in no event shall a permit be granted where any obstruction to the free and uninterrupted traffic, both vehicular and pedestrian, will result.
- 29-15(2)(l) The making of any noise by crying, calling or shouting, or by means of any whistle, rattle, bell, gong, clapper, horn, hammer, drum, musical instrument or other device for the purpose of advertising goods, wares or merchandise or of attracting attention or of inviting patronage of any person to any business whatsoever; provided that newsboys may sell newspapers and magazines by public outcry.
- 29-15(2)(m) The conducting, operating or maintaining of any garage within 100 feet of any private residence, apartment, rooming house or hotel in such manner as to cause loud or offensive noises to be emitted therefrom between the hours of 11:00 p.m. and 7:00 a.m.
- 29-16 Fireworks - Adoption of State Fireworks Law. The following enumerated sections of the Oregon Fireworks Law, together with all acts and amendments applicable to cities which are now or hereafter enacted, are hereby adopted by reference and made a part of this ordinance: ORS 480,110, ORS 480,120, ORS 480,130, ORS 480,140(1), ORS 480,150, and ORS 480,170.
- 29-17 Notices and Advertisements.
- 29-17(1) No person shall affix or post or cause to be affixed or posted any placard, bill, advertisement or poster upon and real or personal property, public or private, without first securing permission from the owner or person in control of private property. This section shall not be construed as an amendment to or a repeal of any regulation now or hereafter adopted by the city regulating the use of and the location of signs and advertising, or the posting of public notices.
- 29-17(2) No persons shall either as principal or agent scatter, deposit or distribute on the streets, sidewalks or other public places or upon any private property any placards or advertisements whatsoever.

29-17(3) This section shall not be construed to prohibit the distribution of advertising material to persons during any parade or approved public gathering.

29-18 General Nuisance. In addition to those nuisances specifically enumerated within this ordinance, every other thing, substance or act which is determined by the council to be injurious or detrimental to the public health, safety or welfare of the city is hereby declared to be a nuisance and may be abated as provided in Sections 19 through 22 of this ordinance.

Abatement Procedure

REPLACED BY ORD. 207
SECTION 9

29-19 Abatement Notice

29-19(1) Upon determination by the council that a nuisance as defined in this or any other ordinance of the city exists, the council shall forthwith cause a notice to be posted on the premises where the nuisance exists directing the owner or person in charge to abate such nuisance.

29-19(2) At the time of posting, the city recorder shall cause a copy of such notice to be forwarded by registered or certified mail, postage prepaid, to the owner or person in charge of the property at the last known address of such owner or other person.

29-19(3) The notice to abate shall contain:

(a) A description of the real property, by street address or otherwise, on which such nuisance exists.

(b) A direction to abate the nuisance within 10 days from the date of the notice.

(c) A description of the nuisance.

(d) A statement that unless such nuisance is abated the city will abate the nuisance and the cost of abatement shall be a lien against the property.

(e) A statement that the owner or person in charge of the property may protest the abatement by giving notice to the city recorder within five days from the date of the notice.

29-19(4) The person posting and mailing the notice as provided herein shall, upon completion of the posting and mailing, execute and file a certificate stating the date and place of such mailing and posting.

29-19(5) An error in the name or address of the owner or person in charge of the property or the use of a name other than that of the owner or other person shall not make the notice void and in such a case the posted notice shall be sufficient.

29-20 Abatement by the Owner.

29-20(1) Within 10 days after the posting and mailing of the notice as provided in Section 19, the owner or person in charge of the property shall abate the nuisance or show that no nuisance exists.

29-20(2) The owner or person in charge protesting that no nuisance in fact exists shall file with the city recorder a written statement which shall specify the basis for so protesting.

29-20(3) The statement shall be referred to the council as a part of the council's regular agenda at the next succeeding meeting. At the time set for the consideration of the next succeeding meeting. At the time set for the consideration of the abatement, the owner or person in charge of the property may appear and be heard by the council and the council shall

thereupon determine whether or not a nuisance in fact exists and such determination shall be entered in the official minutes of the council. Council determination shall be required only in those cases where a written statement has been filed as provided herein.

29-20(4) If the council determines that a nuisance does in fact exist, the owner or other person shall within five days after such council determination abate such nuisance.

29-21 Abatement by the City.

29-21(1) If within the time filed as provided by this ordinance, the nuisance has not been abated by the owner or person in charge of the property, the council shall cause the nuisance to be abated.

29-21(2) The officer charged with abatement of such nuisance shall have the right at reasonable times to enter into or upon any property to investigate or cause the removal of such nuisance.

29-21(3) The city recorder shall keep an accurate record of the expense incurred by the city in abating the nuisance and shall include therein a charge of 10 per cent of the expense for administrative overhead.

29-22 Assessment of Costs.

29-22(1) The city recorder, by registered or certified mail, postage prepaid, shall forward to the owner or person in charge of the property, a notice stating:

(a) The total cost of abatement including the administrative overhead.

(b) That the cost as indicated will be assessed to and become a lien against the property unless paid within 60 days from the date of the notice.

(c) That if the owner or person in charge of the property objects to the cost of the abatement as indicated, he may file a notice of objection with the city recorder not more than 30 days from the date of the notice.

29-22(2) After the expiration of 30 days from the date of the notice, the council in the regular course of business shall hear and determine the objections to the costs to be assessed.

29-22(3) If the costs of the abatement are not paid within 60 days from the date of the notice, an assessment of the costs as stated or as determined by the council shall be made by resolution and shall thereupon be entered in the docket of city liens; and upon such entry being made, shall constitute a lien upon the property from which the nuisance was abated.

29-22(4) The lien shall be collected in the manner provided by the general laws of the state of Oregon for foreclosing liens and collecting assessments, and such lien shall bear interest at the rate of 6 per cent per annum. Such interest shall commence to run 30 days after the entry of the lien in the lien docket.

29-22(5) An error in the name of the owner or person in charge of the property shall not void the assessment nor will a failure to receive the notice of the assessment render the assessment void, but it shall remain a valid lien against the property.

29-23 Summary Abatement. Upon determination by the mayor, health officer, or chief of police that a nuisance as defined by this ordinance exists and that unless the nuisance be summarily abated the public health, safety or welfare will be endangered, such officer may act as follows:

29-23(1) He shall give or cause to be given a notice to remove or abate such nuisance within 24 hours.

29-23(2) If the nuisance is not removed or abated within 24 hours he is authorized to remove or abate the nuisance and the cost shall be charged against the property and collected as provided in Section 21 and 22 of this ordinance.

29-24 Penalties. Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by imprisonment in jail for a period not to exceed 30 days, or by a fine not to exceed \$150.00, or both.

29-25 Separate Violations.

29-25(1) Any person violating any provision of this ordinance shall be considered to have committed a separate offense for each day during which such violation continues.

29-25(2) The abatement of a nuisance as herein provided shall not constitute a penalty for a violation of this ordinance, but shall be in addition to any penalty imposed for a violation of the ordinance.

29-26 Severability. The sections and subsections of this ordinance are hereby declared severable. The invalidity of any one section or subsection shall not affect the validity of the remaining sections or subsections.

Whereas, this ordinance is necessary for the immediate preservation of the peace, health and safety of the city of Detroit in that it is necessary to revise regulation of nuisances, therefore an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage by the city council and approval by the mayor.

Passed and approved

July 13, 1965