



City of Racine, Wisconsin
Agenda Briefing Memorandum
Ordinance 0001-26 – Nuisance Premises Amendments

AGENDA DATE:

Introduction to Council Date: April 20, 2026

Standing Committee Date: Pending

Final Action Council Date: Pending

PREPARED BY: Matthew J. Perz, Assistant City Attorney

REVIEWED BY: Scott R. Letteney, City Attorney

SUBJECT: Communication sponsored by Mayor Mason requesting an ordinance that amends Chapter 66, Article XXX to clarify the chronic nuisance premises process, expand the ability of departments to collaborate in addressing chronic nuisance premises, and authorize the city attorney to initiate actions to abate nuisances under Wis. Stat. §§ 66.0413, 254.595, and ch. 823.

BACKGROUND & ANALYSIS:

The proposed ordinance would amend the City's chronic nuisance clarify the chronic nuisance premises process, expand the ability of departments to collaborate in addressing chronic nuisance premises, and authorize the city attorney to initiate actions to abate nuisances under Wis. Stat. §§ 66.0413, 254.595, and ch. 823.

The chronic nuisance premises ordinance currently designates the chief of police as a code enforcement officer to deem those premises that generate three or more police responses from the police department within a 60-day period as a chronic nuisance premises. Additionally, the chief of fire, public health administrator, chief building inspector, zoning administrator, city attorney, chief assessor, city forester, or weed commissioner, or their designee are also code enforcement officers and may deem a property a chronic nuisance those premises that generates three or more enforcement actions within a 180-day period. Once a property is deemed a chronic nuisance process, the owner may provide an abatement plan to reduce the public nuisance activity. If a plan is successful, the property is no longer deemed a chronic nuisance premises. If a property owner does not submit a plan, the plan is not acceptable, or the plan fails to abate the nuisance, the code enforcement officer may pursue remedies which may include additional citations for chronic public nuisance activity and assessing costs of the city services against the owner of the property.

To enhance collaboration among departments and reduce redundancy, the amended ordinance permits the various code enforcement officers to delegate authority to each other to manage the abatement process and amends all time periods to assess nuisance activity to a 90-day window. A combination of police responses and other enforcement actions may be used to meet the threshold for a chronic nuisance premises. This consolidation reduces duplicative efforts by both the code enforcement officers and owners of properties deemed a chronic public nuisance in reviewing and preparing abatement plans. Additionally, the amended ordinance incorporates the recently passed property maintenance code and explicitly expands authority to the manager of the neighborhood enforcement division and the director of city development to serve as code enforcement officers.

The abatement proposal process and appeal process is also refined. The amended ordinance allows some flexibility for code enforcement officers to provide additional time for property owners to prepare abatement

plans and for the code enforcement officer to review abatement plans. The appeal process is also clarified to identify the appellate issues that may be heard by the due process board depending on what stage an appeal is submitted.

Finally, the ordinance grants the city attorney authority to initiate actions in circuit court to abate nuisances. The ordinance permits the city attorney to file actions under Wis. Stat. § 66.0413 (razing buildings, including appointing a receiver to remedy the defects), Wis. Stat. § 254.595 (receiverships for properties violating codes or health orders), and Wis. Stat. ch. 823 (injunctions and receiverships for nuisance activities).

Inserted below is Chapter 66, Article XXX of the Code with the proposed changes. Stricken language would be deleted; underlined language would be added.

Sec. 66-1001. Definitions.

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

Chronic nuisance premises means a premises that has generated at least three responses from the police department and/or at least three enforcement actions by a code enforcement officer, or any combination thereof, for public nuisance activities within a 90-day period. A police response shall be counted against the premises if the call was in response to a public nuisance activity occurring at or within 200 feet of the premises by a person associated with the premises regardless of whether an arrest was made. Each separate and distinct response from the police department shall be counted. Other enforcement actions, regardless of number, will be counted as one incident if issued on the same day and by the same code enforcement officer. ~~at least three or more responses from the police department for public nuisance activities within a 60-day period, regardless of whether an arrest was made. A police response shall be counted against the premises if the call was in response to a public nuisance activity occurring at or within 200 feet of the premises by a person associated with the premises. A chronic nuisance premises also means a premises that has generated at least three or more enforcement actions to correct violations of the building code, fire code, public health code, or a combination thereof, within a 180-day period, each of which was generated on a separate date.~~

City means the City of Racine in the State of Wisconsin.

Code enforcement officer means any of the following persons: chief of police, chief of fire, public health administrator, chief building inspector, zoning administrator, city attorney, chief assessor, city forester, weed commissioner, manager of the neighborhood enhancement division, director of city development, or their designee.

Enforcement action means the arrest, the issuance of a citation or written warning, or the issuance of an order to correct code violations taken against any person associated with the premises.

Notice date means the second day after mailing, if applicable, or the date of publication, whichever is later.

Occupant means any person other than the owner who is in actual or constructive possession of a premises, including, but not limited to, any occupant or licensee of the premises holding the legal right to occupy and control the premises.

Person means any natural person, agent, association, firm, partnership, corporation or other entity capable of owning, occupying, or using property in the City of Racine.

Person associated with premises means any person who, whenever engaged in a nuisance activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a premises, or person present on a premises, including, without limitation, any officer, director, owner, operator, manager, customer, resident, guest, visitor, agent, employee, or any independent contractor of a property, or person in charge of a premises.

Premises means a commercial business establishment (both permanent and mobile), a place of abode, a residence, a house, or ~~multi-dwelling structure multiple dwelling unit for one or more persons~~, including lodging houses, hotels, motels and tourist rooming houses, and associated common areas, yards, garages, sheds, other outbuildings, and parking lots, or a specific unit of a multi-dwelling ~~structure~~premise, provided the specific unit meets the requirements of a nuisance premises as defined in this section.

Public nuisance or *nuisance activity* means an act, omission, use, activity, thing, behavior, occupation, place, conduct, or physical condition that continues in the City of Racine for such time as to do any of the following:

- (1) Substantially annoy, injure, or endanger the comfort, health, repose, peace, order, 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 attempt 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;
- (5) Violate the building code and property maintenance code as set forth in chapters 18 and 19 of this code of ordinances; ~~Violate the building code as set forth in chapter 18 of this code of ordinances;~~
- (6) Violate the fire prevention and protection code ("fire code") as set forth in chapter 50 of this code of ordinances;
- (7) Violate the public health, environment, or related codes as set forth in chapters 10, 22, 42, and 54 of this code of ordinances; or
- (8) Violate the zoning code as set forth in chapter 114 of this code of ordinances.
- (9) Violate section 66-1002 of this article.

Sec. 66-1002. Public nuisance prohibited.

(a) No person may create, contrive, erect, maintain, cause, continue, install, construct, or permit to exist in the City of Racine a public nuisance.

(b) The following acts, omissions, uses, activities, things, behaviors, occupations, places, conduct, or physical conditions are specifically declared to be a public nuisance, but such enumeration shall not be construed to exclude other public nuisance activities:

- (1) *Loud noise areas.* Any place in the city where any unreasonably loud, discordant, and unnecessary sound

conditions, including sounds from vehicles, equipment, machinery, guns, fireworks, or enclosed domestic or other animals, or from any human-created or aided sounds, including alleged music, repeatedly occur.

- (2) *Disorderly conduct areas.* Any place in the city where unpermitted, abusive, indecent, profane, or boisterous sounds, unpermitted fighting, brawling, or rioting, or other unpermitted disorderly conduct conditions, repeatedly occur.
 - (3) *Repeated violations of ordinances or statutes.* Any place in the city where city ordinances or state statutes are repeatedly and intentionally violated. This section does not require repeated violations of the same ordinance or statute in every incident.
 - (4) *Bawdyhouses.* Pursuant to Wis. Stat. § 823.09, whoever erects, establishes, continues, maintains, uses, occupies, or leases any building or part of a building, erection, or place to be used for the purpose of lewdness, assignation, or prostitution, or permits the same to be so used, in the town, is guilty of a nuisance and the building, erection, or place in or upon which such lewdness, assignation, or prostitution is conducted, permitted, carried on, continued, or exists, and the furniture, fixtures, musical instruments, and contents used therewith for the same purpose, are declared a nuisance, and shall be enjoined and abated.
 - (5) *Illegal drug houses.* Any building or structure that is used to facilitate the delivery, distribution, or manufacture, as defined in Wis. Stats. §§ 961.01(6), (9), and (13), respectively, of a controlled substance as defined in Wis. Stat. § 961.01(4), or a controlled substance analog as defined in Wis. Stat. § 961.01(4m), and any building or structure where those acts occur.
 - (6) *Criminal gang houses.* Any building or structure that is used as a meeting place of a criminal gang, as defined in Wis. Stat. § 939.22(9), or that is used to facilitate the activities of a criminal gang.
 - (7) *Gambling houses.* Any gambling place as defined in Wis. Stat. § 945.01(4)(a).
 - (8) *Illegal alcohol houses.* Any building or place where alcohol beverages or alcohol is sold, possessed, stored, brewed, bottled, manufactured, or rectified without a valid permit or license issued under Wis. Stats. ch. 125 or 139, or where persons are permitted to drink alcohol beverages in violation of Wis. Stats. ch. 125.
 - (9) *Blighted buildings and premises.* Premises existing within the city that are blighted because of faulty design or construction, failure to maintain them in a proper state of repair, improper management, or the accumulation thereon of junk or other unsightly debris, structurally unsound fences, and other items that depreciate property values and jeopardize or are detrimental to the health, safety, enjoyment of property, or welfare of the people of the city.
- (c) A nuisance activity does not include activities, behaviors, or conduct that result in a call for assistance made by the owner or occupant requesting law enforcement services related to any of the following:
- (1) "Domestic abuse," as defined in Wis. Stats. § 813.12(1)(am).
 - (2) "Sexual assault," as defined in Wis. Stats. §§ 940.225, 948.02, and 948.025.
 - (3) "Stalking," as defined in Wis. Stats. § 940.32.

(d) Owner or occupant of premises responsibility. Any owner of land or premises in the city is responsible for compliance with this article on the owner's land or premises regardless of responsibility for the acts, omissions, uses, activities, things, behaviors, occupations, places, or physical conditions located on the land or premises that are subject to this article. Any occupant of land or premises in the city is responsible for compliance with this article on the occupant's land, regardless of ownership of such land or premises, for the acts, omissions, uses, activities, things, behaviors, occupations, places, or physical conditions occurring on the land or premises that are subject to this article during such occupancy.

(e) For purposes of this article, the finding of a public nuisance activity does not require an arrest, charge, or conviction of any of the above offenses, so long as the public nuisance activity can be substantiated by code enforcement records. Each separate and distinct incident shall constitute a public nuisance activity, and two or more separate and distinct incidents occurring on the same day shall be counted separately, except for orders to correct violations of the building, fire, zoning, public health, environment code, property maintenance code, or other related codes that are issued on the same day, which shall be construed as one incident.

Sec. 66-1003. Chronic nuisances prohibited.

(a) *Findings and purpose.* The Common Council of the City of Racine finds that public nuisances exist in the City of Racine in the activities happening on, within, and surrounding certain commercial and residential premises in violation of the City of Racine Municipal Code of Ordinances, all of which interfere with the public's interest in the quality of life and total community environment, tone of commerce, and property and neighborhood values. Nuisance activities contribute to the general decay of affected neighborhoods and negatively impact residents in those neighborhoods. The common council further finds that the continued occurrence of such activities and violations is detrimental to the health, safety, and welfare of the people of the City of Racine and of the businesses thereof and visitors thereto.

The common council finds that certain commercial and residential premises in the City of Racine require a disproportionate amount of resources from the City of Racine's various departments to be devoted to addressing nuisance activities and violations of the City of Racine Municipal Code of Ordinances that occur thereon. A chronic nuisance is a public nuisance. The common council finds that any premises that has generated at least three responses from the police department and/or at least three enforcement actions by a code enforcement officer, or any combination thereof, for public nuisance activities within a 90-day period for public nuisance activities ~~The common council finds that any premises that has generated three or more responses from the police department within a 60-day period or three or more responses from other code enforcement officers within a 180-day period for public 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. Often this disproportionate devotion of city resources is due to property owners' own actions or the failure of property owners to accept and exercise sufficient responsibility for and over the actions of occupants, guests, agents, employees, or other persons associated with the premises that reside within or frequent the premises.

The common council further finds that premises owners and occupants conducting business activities upon the premises, who chronically fail to control the use of their property, substantially interfere with the comfortable enjoyment of life, health and safety of the community. This section is enacted to encourage property owners to recognize their responsibility to ensure that activities occurring on their property conform to the law and do not unduly burden the city's resources, to provide a mechanism for the city to take action against property owners who fail to abate nuisance activities occurring on their premises, and to recover the costs associated any disproportionate devotion of city resources devoted to addressing nuisance activities.

The common council therefore directs the chief of police, chief of fire, public health administrator, chief building inspector, zoning administrator, city attorney, chief assessor, city forester, weed commissioner, manager of the neighborhood enhancement division, director of city development, or their designees, as provided in this section, to charge the owners of such premises the costs associated with abating the nuisance activities that occur thereon.

(b) *Determination of chronic nuisance premises.* Whenever the minimum criteria for a chronic nuisance premises has been met, the code enforcement officer shall determine from the facts of each incident and considering the purpose of this section as set forth in paragraph (a), whether the premises is a chronic nuisance premises. The code enforcement officer(s), in making a determination, shall consider, among other factors, whether the nuisance activities resulting in numerous city responses were reported by the owner of the premises in an effort to abate the problems at the premises and whether the nuisance activity was committed by a person having no association with the premises by acquaintance with, relation to, or expressed or implied invitation from the owner, occupant, operator, or agent of the premises. If the code enforcement officer determines that there exists a chronic nuisance premises and that further action is necessary by the code enforcement officer's department in order to abate the nuisance, the code enforcement officer shall notify the owner of the property that it has been deemed a chronic nuisance premises.

(c) *Notice of chronic nuisance premises.* The notice shall contain the street address or legal description sufficient for identifying the premises, a description or list of the nuisance activities that have occurred at the premises, a statement that the owner shall, within 14 days of the notice date, respond to the code enforcement officer who issued the notice in writing and propose an abatement plan, and the potential penalties for failing to reply, including a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises. Such notice shall be deemed to be properly served if sent by first class mail to the address on file with the chief assessor's office or to a registered agent identified through the department of financial institutions. If the owner cannot be located, the notice shall be published as a class 2 notice under Wis. Stats. ch. 985 and a copy left at the premises.

~~*Notice of chronic nuisance premises.* The notice shall contain the street address or legal description sufficient for identifying the premises, a description or list of the nuisance activities that have occurred at the premises, a statement that the owner shall, within ten days of the notice, respond to the code enforcement officer who issued the notice in writing and propose an abatement plan, and the potential penalties for failing to reply, including a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises. Such notice shall be delivered by regular mail to the address on file with the chief assessor's office. If the owner cannot be located, the notice shall be published as a class 2 notice under Wis. Stats. ch. 985 and a copy left at the premises.~~

(d) *Abatement plan.*

(1) *Proposed abatement plan.* The owner shall deliver to the code enforcement officer a written proposal to abate the nuisance activities at the premises by no later than 14 days from the notice date under section 66-1003(c). The code enforcement officer may, but is not required to, grant one 14-day extension for cause. The code enforcement officer may accept or reject the proposed abatement plan at the code enforcement officer's discretion. Any rejection shall be in writing and shall state therein the reasons therefor and that the owner may modify the abatement plan and submit for review a finalized abatement plan under section 66-1003(d)(2). Notice of rejection or acceptance of the proposed abatement plan shall be deemed to be properly served if sent by first class mail to the address on file with the chief assessor's office or to a registered agent identified through the department of financial institutions. Failure to timely

submit a proposed abatement plan forfeits an owner's right to submit a finalized abatement plan.

~~(1) *Proposed abatement plan.* The owner shall submit to the code enforcement officer a written proposal to abate the nuisance activities at the premises by no later than ten days from the date of the notice under section 66-1003(c). The code enforcement officer may by no later than 20 days from the date of the notice under section 66-1003(c) accept or reject the proposed abatement plan at his or her discretion. Any rejection shall be in writing and shall state therein the reasons therefor and that the owner may modify the abatement plan and submit for review a finalized abatement plan under section 66-1003(d)(2).~~

(2) *Finalized abatement plan.* The owner shall deliver to the code enforcement officer a finalized abatement plan by no later than 14 days from the notice date of rejection of the proposed abatement plan. The code enforcement officer may accept or reject the finalized abatement plan at the code enforcement officer's discretion. Any rejection shall be in writing and shall state therein the reasons therefor.

~~(2) *Finalized abatement plan.* The owner shall submit to the code enforcement officer a finalized abatement plan by no later than 30 days from the date of the notice under section 66-1003(c). The code enforcement officer may by no later than 40 days from the date of the notice under section 66-1003(c) accept or reject the finalized abatement plan at his or her discretion. Any rejection shall be in writing and shall state therein the reasons therefor.~~

(3) *Implementation.* An accepted proposed or finalized abatement plan shall be fully implemented by the owner by no later than 60 days from the notice date of acceptance by the code enforcement officer, except that the code enforcement officer may state an alternative date by which the proposed or finalized abatement plan shall be fully implemented by the owner.

~~(3) *Implementation.* The finalized abatement plan shall be fully implemented by the owner by no later than 60 days from the date of the notice under section 66-1003(c), except that a finalized abatement plan that has been accepted by the code enforcement officer may state an alternative date by which the finalized abatement plan shall be fully implemented by the owner.~~

(4) *Intent to pursue remedies.* Upon rejection of the owner's finalized abatement plan by the code enforcement officer, the code enforcement officer may notify the owner of the code enforcement officer's intent to pursue remedies under section 66-1003(e).

~~(4) *Intent to pursue remedies.* Upon rejection of the owner's proposed abatement plan or finalized abatement plan by the code enforcement officer, the code enforcement officer may notify the owner of his or her intent to pursue remedies under section 66-1003(e).~~

(e) *Notice of intent to pursue remedies.* If any one or more of the following conditions is met, then the code enforcement officer may notify the owner of both the code enforcement officer's intent to pursue one or more remedies under section 66-1003(f) and the right to appeal under section 66-1003(g). Such notice shall be by first class mail sent to the address on file with the chief assessor's office or to a registered agent identified through the department of financial institutions. If the owner cannot be located, the notice shall be published as a class 2 notice under Wis. Stats. ch. 985 and a copy left at the premises.

~~(e) *Notice of intent to pursue remedies.* If any one or more of the following conditions is met, then the code enforcement officer may notify the owner of both his or her intent to pursue one or more remedies under section 66-1003(f) and the right to appeal under section 66-1003(g). Such notice shall be delivered by regular mail to~~

~~the address on file with the chief assessor's office. If the owner cannot be located, the notice shall be published as a class 2 notice under Wis. Stats. ch. 985 and a copy left at the premises.~~

(1) The owner fails to deliver a timely proposed abatement plan under section 66-1003(d)(1);

~~(1) The owner fails to submit a timely proposed abatement plan or such plan is rejected by the code enforcement officer under section 66-1003(d)(1);~~

(2) The owner fails to deliver a timely finalized abatement plan or such plan is rejected by the code enforcement officer under section 66-1003(d)(2);

~~(2) The owner fails to submit a timely finalized abatement plan or such plan is rejected by the code enforcement officer under section 66-1003(d)(2);~~

(3) The owner fails to fully implement an accepted proposed or finalized abatement plan by the expiration date under section 66-1003(d)(3).

~~(3) The owner fails to fully implement the finalized abatement plan by the expiration date under section 66-1003(d)(3).~~

(4) If, after 180 days from the date of acceptance of the proposed or finalized abatement plan, the premises qualifies as a chronic nuisance premises unless otherwise noted in a proposed or finalized abatement plan.

~~(4) If, after 180 days from the date of the notice under section 66-1003(e), the premises qualifies as a chronic nuisance premises.~~

(f) Remedies and forfeitures.

(1) Costs of abatement. The code enforcement officer may calculate any and all costs, fees, and other expenses (collectively "expenditures") incurred by the city arising from and/or pertaining to city services and resources used for responding and preventing the nuisance activities at the premises, including, but not limited to, actual burdened labor, overtime, materials, vehicle use, and related administrative time and efforts incurred and for any subsequent city expenditures for the same, including subsequent enforcement actions, and invoice the owner of the real property for such services and resources, beginning on the date of the notice of intent to pursue remedies under section 66-1003(e). Until the chronic nuisance has been abated, the code enforcement officer may continue to calculate and invoice the owner for any and all expenditures to abate nuisance activities. The relevant code enforcement officer shall keep an accurate calculation of the expenditures and shall report it to the finance director. An unpaid invoice may be a lien on such premises and such costs may be assessed against the real property for services rendered and incurred by the city to enjoin or abate the public nuisance as a special charge under Wis. Stats. § 66.0627, unless paid within 30 days of the date on the invoice.

(2) Violations and forfeitures. It shall be a violation for any person to fail to abate any chronic nuisance after receiving a notice to pursue remedies. If after sending out the notice to pursue remedies under section 66-1003(e) the chronic nuisance has not been abated, the code enforcement officer may also issue a complaint or citation against the property owner or occupant for every nuisance activity thereafter associated with the premises until the chronic nuisance has been abated. A person in violation of this section shall forfeit not less than \$500.00 for the first offense, \$750.00 for the second offense, and

\$1,000.00 for any subsequent offense within one year. Each day that a violation continues shall be a separate offense.

- (3) Upon declaring a chronic nuisance property, the code enforcement officer shall also refer the matter to the city attorney's office to determine if a nuisance action under Wis. Stats. chs. 66, 254, or 823 is appropriate and to the public safety and licensing committee to determine if a review of the licensed premises is appropriate.

(g) Appeal. A property owner who receives notice pursuant to section 66-1003(c) that the property owner's premises is a chronic nuisance premises, or pursuant to section 66-1003(e) that the code enforcement officer intends to pursue remedies against the property owner, may appeal the code enforcement officer's decision within ten days from the notice date. Failure to appeal the code enforcement officer's decision within ten days forfeits the property owner's right to appeal. An appeal is timely if postmarked or received by the code enforcement officer or designee as indicated in the code enforcement officer's notice within 10 days from the notice date.

~~(g) Appeal. A property owner or occupant who receives notice pursuant to sections 66-1003(c) and (e) that his or her premises is a chronic nuisance premises or that the code enforcement officer intends to pursue remedies against him or her, may appeal the code enforcement officer's decision within ten days from the date of the notice.~~

- (1) The appeal shall be in writing, shall state the basis for the appeal, and shall be delivered to the code enforcement officer who issued the chronic nuisance premises notice or notice of intent to pursue remedies or to the code enforcement officer's designee as indicated in the code enforcement officer's notice.

- ~~(1) The appeal shall be in writing and must be delivered to the code enforcement officer who issued the chronic nuisance premises notice or his or her designee as indicated in the code enforcement officer's letter. As soon as practicable thereafter, but not more than 30 days from the date of the written appeal, the due process board shall hear the appeal and allow the property owner or occupant an opportunity to present evidence as to why the premises is not a chronic nuisance premises under the ordinance. In doing so, the chairman may allow testimony from any member of the audience having relevant first-hand knowledge regarding the issues at hand.~~

- (2) Appeals shall address the relevant issue that serves as the basis for the notice of chronic nuisance premises or the notice of intent to pursue remedies as follows:

- (a) An appeal of a notice of chronic nuisance premises provided under section 66-1003(c) shall be limited as to whether the premises is a chronic nuisance premises under the ordinance as of the notice date.
- (b) An appeal of notice of intent to pursue remedies due to a rejection of a finalized abatement plan under section 66-1003(e)(2) shall be limited as to whether there was a rational basis for the code enforcement officer's discretionary decision.
- (c) An appeal of notice of intent to pursue remedies due to failure to deliver a proposed or finalized abatement plan under sections 66-1003(e)(1) and (2) shall be limited as to whether the proposed or finalized abatement plan was delivered by the date set by the code enforcement officer.
- (d) An appeal of notice of intent to pursue remedies due to the property owner's failure to implement an accepted proposed or finalized abatement plan by the expiration date under section 66-

1003(d)(3) shall be limited as to whether the abatement was implemented by the expiration date identified by the code enforcement officer.

(e) An appeal of a notice of intent to pursue remedies due to the premises qualifying as a chronic nuisance premises 180 days after acceptance of a proposed or finalized abatement plan, or as otherwise noted in section 66-1003(d)(4), shall be limited as to whether the premises is a chronic nuisance premises under the ordinance as of the date of the notice of intent to pursue remedies.

(3) Within 30 days from the date of receipt of the written appeal by the code enforcement officer, the due process board shall hear the appeal and allow the property owner an opportunity to present evidence as prescribed under section 66-1003(g). In doing so, the chair of the due process board may allow testimony from any member of the audience having relevant first-hand knowledge regarding the issues at hand. The due process board may schedule a hearing beyond 30 days from receipt of a written appeal if needed to arrange a quorum, at the discretion of the chair or vice chair, in which case a hearing may be held as soon as practicable.

(4) Within ten days after the appeal is heard, the property owner or occupant shall be notified in writing of the board's decision to either reverse or deny the code enforcement officer's chronic nuisance determination. Any person adversely affected by a decision of the due process board in this respect may seek review by filing a petition in circuit court within 30 days of the date of the decision or be forever barred.

~~(2) Within ten days after the appeal is heard, the property owner or occupant shall be notified in writing of the board's decision to either reverse or deny the code enforcement officer's chronic nuisance determination. Any person adversely affected by a decision of the due process board in this respect may seek review by filing a petition in circuit court within 30 days of the date of the decision or be forever barred.~~

(5) For purposes of this section, the city elects not to be bound by Wis. Stat. ch. 68 with respect to administrative procedure.

~~(3) For purposes of this section, the city elects not to be bound by Wis. Stats. ch. 68 with respect to administrative procedure.~~

(6) Nothing in this section shall prevent the property owner or the code enforcement from resolving and dismissing by mutual agreement any appellate issue to the satisfaction of the parties prior to the due process hearing.

(h) When a chronic nuisance is considered abated. The public nuisance created by a designated chronic nuisance premises shall be considered abated and such designation lifted if, after the proposed or finalized abatement plan has been accepted and timely implemented and after 180 days from the date of acceptance of the notice under section 66-1003(e), the premises does not qualify as a chronic nuisance premises under section 66-1001.

(i) Subsequent notice of nuisance activities. Nothing in this section shall prevent or prohibit a code enforcement officer from issuing or reissuing a notice regarding subsequent nuisance activity or activities that may constitute a chronic nuisance premises.

(j) Other methods not excluded. Nothing in this section shall be construed as prohibiting the abatement of public nuisances by the city or its officials in accordance with the laws of the State of Wisconsin, including, but not limited to, an action under Wis. Stats. ch. 823.

(k) *Departmental independence.* Nothing in this section shall be construed as requiring any city department to undertake any enforcement action set forth herein independently of any other city department. Additionally, nothing in this section shall be construed as preventing cooperation between city departments. Code enforcement officers may delegate their authority to another code enforcement officer at their discretion, including, but not limited to, receipt, review, and approval of a proposed or finalized abatement plan.

(l) *Severability.* If any section of this article is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected.

Sec. 66-1004. Eviction or retaliation prohibited.

[Language for this section omitted for purposes of this Agenda Briefing Memorandum. No changes made.]

Sec. 66-1005. City attorney authorization to abate nuisances.

The city attorney is authorized to initiate actions to abate nuisances as permitted under Wis. Stat. §§ 66.0413, 254.595 and ch. 823.

RECOMMENDED ACTION: To approve.

FISCAL NOTE & BUDGETARY IMPACT: N/A