

NEIGHBORHOOD QUALITY OF LIFE

Addressing nuisances, code violations, and other conditions in your community

Neighborhood development includes several components. Occasionally, too much attention is focused on starting new programs or attracting new businesses. In many cases, neighborhood revitalization will not succeed without improving existing conditions. Community involvement is often the key to addressing quality of life issues, such as unsightly, unpleasant, or dangerous conditions. Reporting code violations and instituting nuisance actions are the two most common approaches to neighborhood improvement.

Community Legal Resources has developed this guide to help residents, community groups, and support organizations understand the basic principles of code enforcement and nuisance actions, while serving as a quick reference for those taking steps to report violations. While every effort has been made to ensure that the information provided is current, it is not intended as an exhaustive treatment of the subject, and is not a substitute for legal advice.

For further information, contact Community Legal Resources at (313) 964-4130.

I. CITY CODE VIOLATIONS

A. What is a code violation?

A code violation is an act or condition that is prohibited by a set of laws or regulations, including, for example, illegal dumping, excessive noise, and dangerous buildings.

The Detroit City Code is the main set of laws governing quality of life issues and neighborhood concerns. In addition, the Detroit Zoning Ordinance and Building Code also address some of the issues in the City of Detroit.

Wayne County also has its own Code of Ordinances. This code includes a number of environmental ordinances that citizens can use to address quality of life issues.

B. What are examples of typical violations?

- abandoned vehicles
- overgrown weeds
- trash containers left out longer than 8:00 p.m. the day of pickup
- begging
- loitering
- illegal dumping
- dangerous buildings
- unlicensed businesses

C. How are code violations enforced, what are the remedies?

The City of Detroit created the Department of Administrative Hearings (DAH) in 2005. Before the establishment of the DAH, code violations were enforced through the 36th District Court.

That court, which hears more than 500,000 cases yearly, had only one judge available to adjudicate environmental code violations. The DAH was designed to give Detroit a more effective and efficient mechanism to combat blight and other code violations. The DAH exclusively handles blight cases. In addition to the power to issue up to \$10,000 per day in fines, the DAH may garnish wages, attach liens to property, and even prevent the renewal of a violator’s driver’s license.

The DAH is divided into three separate divisions: (1) property maintenance, (2) zoning, and (3) illegal dumping and waste. The DAH itself does not investigate or file complaints. Residents with complaints or questions should contact the appropriate city department. The department will investigate the complaint and, if necessary, issue a ticket to the offender. The offender may then appeal the citation to the DAH, which will then schedule a hearing. During the hearing, the offender is given an opportunity to argue his or her case before the hearing officer issues a final decision.

D. How are responsibilities of the DAH divided?

| Property Maintenance | Zoning | Illegal Dumping and Waste |
|--|--|--|
| <ul style="list-style-type: none"> • Failure to obtain certificates of compliance • Failure to register rental property • Rodents • Inoperable vehicles • Failure to maintain exterior of property • Failure to comply with emergency orders | <ul style="list-style-type: none"> • Violations of special land use grants • Change of land use without a permit • Change of building use without a permit • Failure to obtain the required certificate of maintenance of grant conditions | <ul style="list-style-type: none"> • Early or late garbage containers at curb • Improper storage of solid waste • Animal and fowl excrement violations • Illegal dumping |

E. Where can you find the code?

You can view the Detroit City Code and Zoning Ordinance online at www.municode.com. You can find a hard copy at the Detroit Public Library’s main campus on Woodward and at the Municipal Reference Library in the Coleman A. Young Municipal Center, as well as at most other Detroit Public Library Locations.

The Building Code can also be found at the Municipal Reference Library and most other Public Library Locations, as can the Wayne County Code of Ordinances.

II. NUISANCE

A. What is a nuisance?

Nuisance is a specific legal term referring to an activity or condition that unreasonably interferes with another’s use or enjoyment of his or her land. There are two types of nuisances, public and private.

A *public nuisance* is an unreasonable interference with general community interests or the

comfort of the public at large. A public nuisance is considered a hazard to the health, safety, peace, comfort, and/or welfare of the public. They cause continuous interference and produce permanent or long-lasting effects. In Michigan, a private party, the state attorney general, or the local prosecutor can initiate a public nuisance action.

A *private nuisance* is similar to a public nuisance, but traditionally affects fewer people. A private nuisance requires that the complaining person or organization suffer a more direct harm than is necessary to establish in a public nuisance action. In a private nuisance action, the offending property owner's use of land has caused a specific and identifiable harm to a particular landowner. The affected party is the only one entitled to initiate a private nuisance action.

B. What are examples of typical nuisances?

- vacant properties
- abandoned or deteriorated buildings
- garbage
- disorderly persons
- ongoing violations of city ordinances
- prostitution
- drugs
- gambling, in some situations
- excessive noise
- repeated trespassing/loitering

C. Nuisance per se

Several activities and conditions are automatically considered a nuisance or a *nuisance per se*. The Detroit City Code specifically identifies a number of violations as nuisances per se. These violations include offenses such as:

- operating illegal "sidewalk businesses"
- parking in prohibited areas
- operation of unwholesome or offensive trades or callings
- maintaining a diseased or dangerous tree on private property
- excessive noise
- continuous car alarms
- operation of a vehicles with unsafe brakes
- dangerous buildings
- anything declared a nuisance by Detroit's public health director

These are nuisances at all times and under any circumstances. All other nuisances are *nuisances in fact*, which means that the activity or condition is considered a nuisance only because of the particular circumstances and surroundings.

D. How are nuisances addressed?

Nuisances are generally dealt with through court action. If the condition is a public nuisance, the person filing the lawsuit (prosecutor, attorney general, or individual) brings a suit in circuit court. In the typical private nuisance action, the injured party sues the person causing the nuisance in circuit court. Owners, tenants, and occupants of affected properties can bring nuisance actions. Similarly, owners, tenants, and occupants of nuisance-causing properties are potentially liable and can be sued.

E. What are the remedies?

With a private nuisance, a claimant can get money damages and/or an injunction ordering the abatement or end of the nuisance-causing activity.

With a public nuisance, the main remedy is to terminate the nuisance-causing activity by court order or injunction. A private party that files a public nuisance suit, however, may seek individual monetary compensation provided that the party alleges a statutory violation and shows that the damages they have sustained are distinct and different from the injury suffered by the public at large.

III. WHAT CAN YOU DO?

A. Your Options

- Ask the offending person to stop the nuisance. You might consider approaching the owner, tenants and/or occupants separately;
- Contact your local authorities, especially the neighborhood city hall and police precinct;
- File a nuisance claim in circuit court; or
- If the property is an abandoned building or vacant lot owned by Wayne County, you may be able to buy the property at auction, occupy, and rehabilitate it.

B. Information you should have ready before you take action

- Nature of the condition (including a brief description and how long condition has existed);
- Location of the condition;
- Name of the property owner and/or resident (this information is very helpful, but not necessary); and
- Record of any previous actions taken (including any filed complaints, what departments you have previously contacted, and the names of people you have spoken with).

C. Options to consider before pursuing a lawsuit:

In almost all cases, the key to resolving the problem is persistence – with the person causing the nuisance and with the agency you are working with to address the issue.

In many instances, education is equally important. Sometimes, the person creating the nuisance or violating the code may not realize that his or her behavior is illegal. It may be unclear what code sections apply to the situation, or what can be done to address the problem. Working with the authorities or local agencies to identify these issues and locate relevant information may take time, but will greatly increase the likelihood that the problem will be addressed.

Creativity is also a key component in eliminating a neighborhood nuisance. One community group was able to force a nuisance-creator to remove a number of broken and abandoned vehicles parked on their front lawn by pointing out to the authorities that the vehicles created an environment that harbored rats. Similarly, another group was frustrated by the failure of local authorities to stop the increasing number of sandwich boards on the sidewalk of its local commercial district. Although there was no regulation directly relating to sandwich board advertisements, there were laws against blocking a pedestrian right of way. Using this regulation, the community group was successful in minimizing the number of the signs.

Community involvement is also important. When interested members of the community are willing to be part of the solution, their investment of time can go a long way toward eliminating a nuisance condition. One group discovered that occasionally the City of Detroit Department of Public Works will provide dumpsters for neighborhood clean-ups, if they are given 30-days notice prior to the event. The group has organized “clean-up days” to clear garbage from its neighborhood, property by property. Not only did the group see immediate improvement as they cleared individual properties, but their willingness to help address the nuisance encouraged local law enforcement to take an increased interest in the area and its problems.

D. If you file a claim in circuit court, keep in mind that:

- You should strongly consider hiring an attorney;
- You can get a nuisance abated or stopped by a court injunction in either public or private nuisance;
- It is best to make a claim for money damages in private nuisance; and
- It is easiest to show harm where the nuisance causes a decrease in property values.

IV. PUTTING IT ALL TOGETHER

Eliminating nuisances and increasing quality of life in a neighborhood are not easy tasks. It requires knowledge, dedication and creativity from everyone involved – residents, government and nonprofit organizations. By identifying the problems and areas that need improvement, coordinating efforts to address those problems, and providing the necessary follow-up, you can perform a key role in improving your neighborhood.

V. RESOURCES

A. Government Contacts

Land Sales:

- Wayne County Sheriff, 224-2260 or www.waynecounty.com.
- Nonprofit groups interested in the foreclosure status of a particular parcel may call the Wayne County Register of Deeds at 224-5876. In most cases, it will be necessary to perform a search of the deed records. These can be found at the Wayne County offices located on the 7th floor of the International Center Bldg. at 400 Monroe St. in Detroit.
- In 2006, Wayne County approved the creation of the Wayne County Land Bank Authority. The Authority has the power to quickly clear title to abandoned or foreclosed properties, and should prove useful in expediting the redevelopment of such properties.

Neighborhood City Halls

- For help addressing environmental concerns, problems such as abandoned vehicles, and assisting with reporting efforts. Your Neighborhood City Hall can help guide you through the reporting process with other agencies.

| District | Address | Phone Number | Zip Codes Served |
|-----------------|---------------------------------------|---------------------|--|
| Central | 106 Coleman A. Young Municipal Center | 224-2989 | 48201,48202, 48203, 48204,48206, 48207, 48208, 48216,48226 |

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|-----------|-------------------------------|----------|---|
| Northwest | 19180 Grand River | 935-5322 | 48219, 48223, 48227, 48228, 48235, 48239, 48240 |
| Northeast | 2328 East Seven Mile, Suite 2 | 852-5700 | 48203, 48205, 48211, 48212, 48213, 48214, 48224, 48234, 48236 |
| West | 11000 W. McNichols, Suite 103 | 578-7580 | 48203, 48221, 48227, 48228 48235, 48238 |
| East | 7737 Kercheval | 852-4770 | 48207, 48211, 48213, 48214, 48215, 48224 |
| Southwest | 7744 W. Vernor | 297-9287 | 48209, 48210, 48216, 48217 |

Reporting Suspected Code Violations

As noted above, you should generally report suspected code violations to your Neighborhood City Hall. Additional reporting information is listed below for situations when you need to make a report during non-business hours or you have an issue that should be reported to a specific department.

Wayne County also operates the Nuisance Abatement Program. Through this program, the county has the power to seize property that is in serious violation of nuisance laws. Suspected violations can be reported to the Wayne County Prosecutor’s Office at 224-5831.

Detroit

All environmental issues can now be reported directly to the City’s 311 Call Center. Similar to 911 services, just dial 311 locally.

Wayne County

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| • Air Pollution for Wayne, Oakland and Macomb Ctys. | 392-6480 |
| • Buildings: open to trespass or dangerous conditions | 224-8206 (Executive Lieutenant of Special Projects) |
| • Environmental emergency hotline | 1-888-223-2363 24 hours |
| • Illegal Activities: gambling, prostitution | 875-7696 (Morality Unit) |
| • Illegal Discharge: into sewers, rivers, streams, the ground | 1-800-292-4706 (Dept. of Environmental Quality’s Emergency Alert System) or 1-888-SHERRIF |

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| <ul style="list-style-type: none"> Road Dust: from natural conditions; pot holes; traffic signals; bridges with problems. | 1-888-762-3273 (24 hours) |
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Police Department, City of Detroit

- 911 for emergencies
- 311 for non-emergencies, reports, or general information; by calling 311 you can ensure that a report is generated
- Local Police Precincts** (to find out what precinct you are located in, go to www.ci.detroit.mi.us/police/dept/pcts/districts.htm) – ask to speak with the Community Relations Sergeants or Environmental Enforcement Officers

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|-----------------------|----------------------|----------|
| Central District | 4747 Woodward Avenue | 596-1300 |
| Southwestern District | 4700 W. Fort St. | 596-5300 |
| Northeastern District | 5100 E. Nevada St. | 596-1100 |
| Western District | 1441 W. Seven Mile | 596-1200 |
| Eastern District | 11187 Gratiot Ave. | 596-5900 |
| Northwestern District | 11450 Warwick | 596-5600 |

B. Other Resources

- A number of community-based organizations have had success in fighting blighted and deteriorating conditions in their neighborhoods. Their activities include Clean and Safe programs, graffiti paint-outs, coordinated reporting of code violations and nuisance conditions, and others. Talking to local organizations may give you ideas about different approaches to take, and acting together may be more effective than tackling problems alone.
- For legal assistance, such as understanding your options or bringing a nuisance suit, contact Community Legal Resources at 313/962-3171.

This publication is intended to provide general information, and is not a substitute for legal advice. If you have additional questions about this issue:

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