

Legislation Text

File #: 32804, **Version:** 1

Fiscal Note

No appropriation is required.

Title

Amending Section 7.05 of the Madison General Ordinances to create a definition of a health nuisance and a violation to permit a health nuisance and amending Section 1.08(3)(a) to establish a bail deposit for creating a health nuisance.

Body

DRAFTER'S ANALYSIS: This ordinance creates a definition of a health nuisance, which mirrors state statute. It also creates a penalty section and bail deposits for any individual that creates or permits a health nuisance.

The Common Council of the City of Madison do hereby ordain as follows:

1. Section 7.05 entitled "Inspection of Health Conditions-Access to Premises-Power to Abate Health Nuisances" of the Madison General Ordinances is amended to read as follows:

"7.05 INSPECTION OF HEALTH CONDITIONS--ACCESS TO PREMISES--POWER TO ABATE HEALTH NUISANCES.

- (1) It shall be the duty of the Director of Public Health and Chief of Police and their designee and they shall have the power, whenever they may deem it necessary, and whenever they shall be so required by the Director of Public Health in order to promote the public health, to enter upon any premises and into any house to ascertain every nuisance that may exist, and examine into the condition and the number of persons inhabiting such house, and to inspect the cellars, privies, cesspools, and drains of such premises, and to order the dispersion or removal of families or persons from buildings or apartments so much crowded as to be suspected of being infected or liable to be infected with any pestilential or other dangerous disease, and from houses which are not fit for human habitation and to order the abatement and removal of such nuisances in any such house, or on such premises. The Director of Public Health, Health Inspector, or any member of the Police Department shall have the right to enter upon any premises and into any house to ascertain whether or not such house or premises are connected with the public sewer system of the City and to examine into the condition and manner of the construction of such sewer connection, and to inspect the cellars, cesspools, privies, drains, and grease-traps on such premises, and in case they find any violation of any ordinance of the City regulating the manner of construction of such sewer connections, or in the manner in which it is being used by the occupants of any building or premises, they shall immediately report such violation to the City Engineer, and the Plumbing Inspector.
- (2) Definition. "Health Nuisance" means a substance, activity or condition that is known to have the potential to cause acute or chronic illness, to endanger life, to generate or spread infectious diseases, or otherwise injuriously to affect the health of the public.
- (23) Unlawful to Refuse Access for Examination of Health Conditions on Premises. It shall be unlawful for any person to refuse to the Director of Public Health and his/her designee, or any member of the Police Department, free access to any building or premises for the purpose of examining the health conditions therein or thereon or to hinder or obstruct the free examination of such building or premises.
- (34) Search Warrant. Whenever the Director of Public Health or his/her designee shall deem it necessary for the preservation of the health of the inhabitants of the City to enter any building in the City for the purpose of examining into or removing or preventing any health nuisance, source of filth, or cause of sickness, and shall be refused such entry, or the building is

unoccupied, the Director of Public Health or his/her designee may make complaint under oath to the judge of the County Court of Dane County, stating the facts in the case, and request such court to issue a warrant directing a police officer of the City, commanding the officer to take sufficient aid, and being accompanied by the Director of Public Health or his/her designee, to the place where such nuisance, source of filth or cause of sickness complained of may be, and if upon inspection the same shall, in the judgment of such persons inspecting, exist, to destroy or remove the same under the direction of the Director of Public Health.

(45) Abatement of Health Nuisances. Whenever any health nuisance, source of filth or cause of sickness shall be found on private property, the Director of Public Health or his/her designee shall order the owner or occupant thereof to remove or abate the same at the owner's expense within a reasonable time which shall be specified in the notice and if the owner shall refuse or neglect to comply with such order, the owner shall be subject to a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100), and each day on which any person shall so refuse or neglect to comply with such order after service of the same may be considered a separate offense and a separate penalty collected therefor. Whenever such owner or occupant shall refuse or neglect to remove or abate said condition, the Director of Public Health shall cause the same to be removed or abated and the City shall recover the expenses incurred thereby from the said owner or occupant, or from such other person as shall have caused or permitted the same. In case the owner is absent from the City, notice to the person who receives the rent or has charge of the property shall be deemed notice to the owner. If any owner or occupant is required to remove any nuisance, source of filth or cause of sickness by filling up low or marshy places upon the property owned or occupied by him or her and fails or neglects to do so within the time specified in the notice, then the Director of Public Health shall cause such work to be done by the appropriate entity and the cost thereof shall be collected from the owner of the premises. When the Director of Public Health or his/her designee shall cause any such health nuisance, source of filth or cause of sickness existing on private property to be removed or abated in accordance with the provisions of this section, and the owner of such property fails to pay for the expense of such removal or abatement, then the costs thereof shall be levied and collected as a special tax upon the lot or land upon which such work was done.

(6) It shall be unlawful for any individual to create or permit a health nuisance.

(7) Any person who violates sub. (6) shall be subject to a penalty of not more than one thousand dollars (\$1000). Each and every day of violation shall constitute a separate offense."

2. Subdivision (a) of Subsection (3) entitled "Schedule of Deposits" of Section 1.08 entitled "Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended by creating and amending therein the following:

| <u>"Offense</u> | <u>Ord. No./Adopted Statute No.</u> | <u>Deposit</u> |
|------------------|-------------------------------------|--------------------------------|
| Health nuisance. | 7.05 | \$250, 1 st |
| | | \$500, 2 nd |
| | | \$1000, 3 rd & sub" |

EDITOR'S NOTE: A new or revised forfeiture range must be approved by the Municipal Judge prior to adoption. This revised range has been so approved.