

What is a nuisance?

An activity which arises from unreasonable, unwarranted or unlawful use by a person of his/her own property, working obstruction or injury to the right of another, or to the public, and producing such material annoyance, inconvenience and discomfort that the law presumes will result in damage.

Are there different types of nuisances?

Yes. There are **two types** of nuisances, a **private nuisance** and a **public nuisance**.

A **private nuisance** is defined as any wrongful action, which destroys or deteriorates the property of an individual or interferes with the person's lawful use or enjoyment of his or her property.

A **public nuisance** is defined as maintaining a public nuisance by act, or by failure to perform a legal duty, intentionally causing or permitting a condition to exist which injures or endangers the public health, safety or welfare. A miscellaneous and diversified group of minor criminal violations, based on some interference with the interests of the community or the comfort or convenience of the general public may rise to the level of a public nuisance. To be considered a public nuisance, the activities, must affect an interest common to the general public. The activity must:

1. Be harmful to the public; or
2. Create an interference in the use of a way of travel; or
3. Affect public morals; or
4. Prevent the public from the peaceful use of its land and the public streets; or
5. Must affect a common interest of the general public.

What is considered a public nuisance?

A combination of repetitive and continual criminal activities that interfere with a group of neighbors' use and enjoyment of their property. Such activities include, but are not limited to, the constant participation in the following activities:

1. Playing loud music;

2. Public fighting;
3. Public yelling;
4. Public screaming;
5. Harassing others;
6. Loud gatherings in public, which disturb neighbors;
7. Shouting obscenities at neighbors;
8. Consumption of alcoholic beverages which result in drunkenness and lewd actions toward others;
9. Constantly honking horns throughout the day and night; and
10. Parking cars on the sidewalks.

If only one neighbor is affected by the above activities, it is considered a private nuisance. The City Attorney's Office cannot provide legal assistance to alleviate a private nuisance. The affected person should contact a private attorney. The individual can obtain a lawyer referral from the State Bar of Michigan. The Lawyer Referral phone number is 1-800-968-0738.

What assistance can the City of Saginaw offer to eliminate a public nuisance problem?

A city ordinance regarding public nuisances does exist. Specifically, Title IX, General Regulations, Chapter 94: Nuisances; Health and Safety of the Saginaw Code of Ordinances authorizes the Saginaw Police Department to issue a ticket for a public nuisance offense. Specifically, Section 94.01 states:

(A) Whatever annoys, injures or endangers the safety, health, comfort or repose of the public; offends public decency; interferes with, obstructs or renders dangerous any street, highway, navigable lake or stream; or in any way renders the public insecure in life or property is hereby declared to be a public nuisance.

(B) Public nuisances shall include, but not be limited to, whatever is forbidden by any provision of this Chapter.

In addition, Section 94.02 states as follows:

(A) No person shall commit, create, or maintain any nuisance.

(B) A person who violates any provision of this section is responsible for a Class C municipal civil infraction, subject to payment of a civil fine as set forth in Title III, Administration, Chapter 37: Code Enforcement of the Saginaw Code of Ordinances, plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to increased fines as provided by Title III, Administration, Chapter 37: Code Enforcement of the Saginaw Code of Ordinances.

Section 37.07 specifically states the fine for a first Class C offense is \$50.00. The fine for a first repeat Class C offense is \$100.00. The fine for a second or subsequent Class C offense is \$200.00.

Therefore, if an investigation supports the complainants' claims, 70th District Court requires the City to obtain the alleged perpetrator's name, address and date of birth. If the City Attorney's Office is able to obtain the information, it will contact the complainant(s) and ask the individual(s) to sign a warrant and complaint.

However, if the alleged activities that constitute the public nuisance consist of continuous gambling, drug or prostitution activities, the complainant should contact the Prosecuting Attorney's Office for a legal remedy at (989) 790-5330. MCL 600.3805 allows the Prosecuting Attorney's Office to initiate an action to abate nuisances if a dwelling is used for activities including, but not limited to, prostitution, gambling or drug activities. Pursuant to this statute, the court can issue an injunction. Also, under MCL 600.3810(2), the court can order the premises padlocked. Padlocking the premises is not a remedy available to the City Attorney's Office under the law.

What is the procedure used by the City Attorney's Office to file a public nuisance complaint?

The public nuisance complaint procedure is a lengthy process. From the time the initial citizen complaint is made to the City Clerk's Office to the matter being investigated by the Saginaw Police Department, to the filing of the Circuit Court lawsuit, could take weeks. In addition, the matter is placed on the court's schedule according to the assigned judge's calendar. However, this is the only civil remedy available to the City to use to alleviate a public nuisance.

The following lists the procedure the City of Saginaw follows in order to file a public nuisance complaint:

1. The citizen should contact the Clerk's Office and obtain a Public Nuisance Petition Form. The form must be completed by you and the neighbors affected by the activities. (Note: More than one household must be affected by the activities.) Each neighbor will need to provide their name, address, phone number and a brief description of the nuisance behavior they have witnessed to substantiate the claim, such as:
 - a. Description of activities;
 - b. Dates of events;
 - c. Information regarding the perpetrator(s) including names, addresses, ages and license plate numbers; and
 - d. Any other documentation such as photographs or videotapes, which would be helpful to the case.
2. The completed Public Nuisance Petition Form should be returned to the City Clerk's Office. The complaint will be entered into the City's complaint system and the petition form forwarded to the Saginaw Police Department. Please be advised the complaint is not confidential and if a Freedom of Information Act request is submitted to the City regarding the complaint, the complainant(s) name will be released.
3. Upon receipt of the complaint by the Saginaw Police Department, an officer will be assigned to thoroughly investigate the matter. The investigation includes:
 - a. Contacting neighbors for additional information regarding the activities and obtain statements from them;
 - b. Gathering reports from their internal operations (i.e. - police reports, call logs etc...); and
 - c. Obtain additional records from other City departments.

Based upon this information, an officer will determine if there is sufficient evidence to pursue the matter in court. If the person continues the activity, the City Attorney's Office will contact the complaining

neighbors and request that they sign affidavits and testify in court. It is required that the complainants sign affidavits and testify in court, otherwise, the City Attorney's Office cannot pursue the matter.

4. If the complainants are willing to sign affidavits and testify, the City Attorney's Office will prepare the complaint and affidavits. After the affidavits are signed and all legal documents are complete, the City Attorney's Office will file the complaint and affidavits with the Court.
5. The Court schedules the hearing. After a judge hears the evidence, he/she can either grant a Permanent Injunction or deny it. A judge will not order the padlocking of a residence. The only remedy available under the court rule used by the City Attorney's Office to file the complaint is an issuance of a Permanent Injunction.
6. If an Injunction is granted, the perpetrator(s) are stopped from creating and/or participating in nuisance acts. If the perpetrator(s) do not refrain from the activity, the City Attorney's Office can file a Motion to Show Cause. In order to file a Motion to Show Cause, the City will conduct an investigation to gather information to include in the motion, which will substantiate the claim that the Court's Injunction Order has been violated. The original complainants that signed the affidavits and testified in court are required to testify at the Show Cause hearing. During the hearing, the judge will determine, based upon the evidence, if the injunction has been violated. If so, the judge will determine the penalties. This process takes time and the judge's schedule determines when the Show Cause hearing will be held.

What can citizens do to assist the City?

1. Document all activities that fall within the parameters of the public nuisance ordinance;
2. Contact Central Dispatch or the Shift Commander on duty for the Saginaw Police Department; and
3. Make sure a police officer prepares an incident report if the nuisance activity was inflicted upon you or happened on your property.

Government Agencies that provide assistance to alleviate public nuisance problems

City of Saginaw Government Agencies

City Clerk's Office

1315 S. Washington Ave., Rm. 104
(989) 759-1480

This office takes complaints and refers them to the appropriate City department. Contact the City Clerk's Office to make a complaint regarding a public nuisance.

Saginaw Police Department

612 Federal
(989) 759-1297
Contact Person: Shift Commander

Contact the Shift Commander to report criminal activities that relate to a public nuisance. There is a shift commander on duty 24 hours a day.

Saginaw County Governmental Agencies

Prosecuting Attorney's Office

111 S. Michigan Ave.
(989) 790-5330

Contact this office if the public nuisance involves a dwelling being used for repetitive actions such as: drug trafficking, gambling, or prostitution activities, which affect residents in the neighborhood.

Central Dispatch

Contact "911" if an emergency occurs and/or the police are needed immediately. However, if the activity does not constitute an emergency but police officers are still required, contact the nonemergency number: 311 or (989) 797-4580.