



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

## OFFICE OF THE CITY ATTORNEY

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### MEMORANDUM

LF090104-10

TO: Council

FROM: Joel P. Landeen, Assistant City Attorney

DATE: 8-24-04

RE: Standing Water Information

I have attached some of the information I have gathered on standing water ordinances so that you can have a chance to review it prior to the committee meetings. The items that have been attached are as follows:

1. The first item is a nuisance ordinance from Ft. Worth, Texas that has language specific to the issue of mosquitoes and standing water. I spoke with a supervisor in their Code Enforcement Office and he indicated that they did not have many problems with enforcement. However, they do not do anything with ponds or wetlands. They mainly deal with pools and items that collect water like tires. He did mention that they were having difficulty recouping costs of abatement.
2. The second item is an ordinance from Maricopa County, Arizona (Phoenix). Chapter 1 of the code contains general enforcement provisions for violations of the code that are similar to what we have. (i.e. criminal penalties and abatement)
3. The third item is a proposed ordinance from Henrico County, Virginia (Richmond). It was not adopted as shown in the article following the proposed ordinance.
4. The fourth and fifth items are an article and ordinance from Demming, New Mexico. I was able to speak with a code enforcement officer there who said that they had not encountered many problems with enforcement. She said that when most people found out why they were there they were cooperative and complied with the request to remove the problem water. They have not had to prosecute anyone yet for violating the ordinance.

5. The sixth item is an ordinance from Old Bridge Township in New Jersey. I unsuccessfully attempted several times to speak with someone there about enforcement.

6. The final items are articles from various sources showing other towns that have passed or discussed passing ordinances.

I will continue to try and contact the towns that I have not been able to reach prior to the committee meetings to see if I can find out more about enforcement.

## Fort Worth Ordinance

Sec. 11A-24. Miscellaneous sanitation nuisances.

(a) A person commits an offense if the person owns or is in control of property that contains a pond, pool, or container holding unwholesome, impure, or offensive water that creates an unreasonable and noxious odor in a public place **or that is detrimental to the health of humans.**

(b) A person commits an offense if the person owns or is in control of property which contains any drain, ditch, tank or gutter that is maintained in such a manner that creates an unreasonable and noxious odor in a public place **or that is detrimental to the health of humans.**

(c) A person commits an offense if the person owns or is in control of property which has an overflowing septic tank or has sewage leaking from any pipes onto the premises.

(d) A person commits an offense if the person owns or is in control of property that contains a condition or place that is a breeding ground for rats.

**(e) A person commits an offense if the person owns or is in control of property that contains a collection of water that is a breeding place for mosquitoes.**

(f) A person commits an offense if the person owns or is in control of property that contains a condition or place that is a breeding ground for flies or cockroaches.

(g) A person commits an offense if the person owns or is in control of a place where sleeping accommodations are offered to the public where ectoparasites suspected to be disease carriers are present.

(h) A person commits an offense if the person operates or causes the operation of a vehicle or container used to transport garbage, human excreta, or other organic material, when such vehicle or container allows the leaking or spillage of its contents.

(m) A person commits an offense if the person owns or is in control of property and accumulates or allows the accumulation of materials in a composting pile or bin on such property in a manner that:

**(1) Breeds or allows the harborage of vectors; or**

(2) Creates an unreasonable and noxious odor in a public place.

(n) A person commits an offense if the person owns or is in control of property and accumulates or allows the accumulation of recyclables on such property in a manner that:

**(1) Breeds or allows the harborage of vectors; or**

(2) Creates an unreasonable and noxious odor in a public place.

(o) In a prosecution of subsections (j), (k), or (l), it is an exception that the property was a solid waste facility regulated by the Texas Natural Resource Conservation Commission or was a recycling facility.

(Ord. No. 12931, § 1, 3-25-97; Ord. No. 14698, § 1, 7-17-01)

Sec. 11A-26. Storage of discarded, used, and broken items.

(a) A person commits an offense if the person accumulates or allows the accumulation on any property of any:

(1) Broken, inoperable, or discarded household furnishings, appliances, machines, tools, boxes and cartons, lawn maintenance equipment, play equipment, toys, and similar items;

(2) Used or discarded building materials;

- (3) Materials or items stored on rooftops or porches of buildings when visible from the public right-of-way or neighboring property;
- (4) Factory or mill wastes;
- (5) Damaged merchandise;
- (6) Wet, broken, or leaking barrels, casks, or boxes;
- (7) Used, discarded, or broken automotive parts or equipment; or
- (8) **Any other materials which tend by decay to become putrid or to provide harborage for rodents and other vectors.**

(b) It is defense to prosecution of subsection (a) that the person was engaged in the business of dealing in junk, and was in compliance with the comprehensive zoning ordinance and all other applicable provisions of the City Code relating to junk dealers.

**STAGNATE/UNWHOLESOME POOL:**

**Subject:**

Pool, pond or accumulation of unwholesome water.

**Use Table:**

Residential										Commercial						Industrial							
Special use																							
A*	AR	B	R1	R2	CR	C	D	PD	MH	ER	E	MU1	FR	F	G	H	I	MU2	J	K	AG	CF	PD

A\* = all A zoned properties; A-43, A-21, A-10, A-7.5, A-5 // P = permitted by right // SE = only with special exception review  
 \* = with supplemental standards // PD = only in PD district following review // Blank = not permitted // AP = allowed only with permit

**Reference:**

Appendix B, Chapter 11A, Article 2, Division 3, Section 11A-24

**Offense:**

A person commits an offense if the person owns or is in control of property that contains a pond, pool, or container holding unwholesome, impure, or offensive water that creates an unreasonable and noxious odor in a public place or that is detrimental to the health of humans.

**Citation:**

Code: 94

“Maintain a (state what) of unwholesome water”

**Procedures:**

Direct person(s) to:

1. Drain area of accumulation.
2. Remove debris or offensive matter.

Sanitize area if needed.

**Hazard to the public health, safety and/or welfare means** a building or structure whose condition is dilapidated, substandard or unfit for human habitation and which

poses a risk or harm to the public health, safety and welfare; and includes but is not limited to:

(a) Any building or structure whose condition has deteriorated or is operated or maintained in violation of the minimum standards established in this article and as described below is hereby subject to investigation by the superintendent and may be deemed to be substandard and a hazard to the public health, safety and/or welfare by the building standards commission:

(1) When any door, aisle, passageway, stairway, or other means of egress is not of sufficient width or size or is not so arranged as to provide safe and adequate means of egress in case of fire or panic;

(2) When the walking surface of any aisle, passageway, stairway, or other means of egress is warped, worn, loose, torn, or otherwise unsafe so that it would not provide safe and adequate means of egress in case of fire or panic;

(3) When the stress in any materials, member, or portion thereof, due to all dead and live loads, is more than one and one-half ( $1 \frac{1}{2}$ ) times the working stress or stresses allowed in the building code for new buildings or similar structure, purpose, or location;

(4) When any portion has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the building code for a newly constructed building or structure of like area, height, and occupancy;

(5) When any portion or member or appurtenance is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property;

(6) When any portion of the building or structure, or when any member, appurtenance or ornamentation on its interior or exterior is not of sufficient strength or stability, or is not anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of one-half ( $\frac{1}{2}$ ) of that specified in the building code for a newly constructed building or structure of like area, height and occupancy, without exceeding the working stresses permitted in the building code for such buildings or structures;

(7) When any portion has wracked, warped, buckled, or settled to such an extent that walls, columns or other structural portions have materially less capacity to resist loads, winds or earthquakes than is required in the case of similar new construction;

(8) When the building or structure or any portion thereof is likely to partially or completely collapse because of:

A. Dilapidation, deterioration, or decay;

B. Faulty construction;

C. The removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building or structure; or the deterioration, decay, or inadequacy of its foundation;

(9) When, for any reason, the building or structure or any portion thereof is manifestly unsafe for the purpose for which it is being used;

(10) When the exterior walls or other structural members designed to be vertical list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third ( $\frac{1}{3}$ ) of the base;

(11) When the building or structure, exclusive of the foundation, shows thirty-three (33) percent or more damage or deterioration of its supporting member or members, or fifty (50) percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings;

(12) When the building or structure is damaged, dilapidated, or deteriorated to the extent that it is an attractive nuisance;

(13) When a building or structure has any non-supporting part, member, or portion with less than fifty (50) percent, or any supporting part, member, or portion with less than sixty-six (66) percent, of the strength, fire resistive protection or characteristics, or weather resistive protection or characteristics required by law for a newly constructed building or structure of like area, height, and occupancy;

(14) If the building or structure is used or intended to be used for dwelling purposes, and because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air, or sanitation facilities, or otherwise, is not sanitary, is unfit for human habitation, or is in such a condition that is likely to cause sickness or disease;

(15) If the building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate means of egress, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is a hazard;

(16) When any portion of an abandoned building or structure, inclusive of foundations, porches or steps, remains on a site after the demolition or destruction of the building or structure without the approval of the building standards commission;

**(17) When the building or structure or its curtilage contains accumulations of solid waste, stagnant water or other stagnant liquid, flammable liquids, slops, or other deposits or substances, or human or animal excrement which are:**

- A. Unwholesome, filthy, unsightly, offensive, or unsanitary;**
- B. Likely to create or engender disease;**
- C. Likely to harbor vectors; or**
- D. Likely to contaminate stormwater runoff.**

# MARICOPA COUNTY HEALTH CODE

## CHAPTER III

### RODENTS, INSECTS AND VERMIN

#### **REGULATION 1. Infestation -- Harborage**

The infestation by or harborage of rodents, lice, bedbugs, roaches, flies or other arthropods of public health significance, in or about any premises is hereby declared to be dangerous to public health. No person shall cause, maintain, or within his control, permit such infestation or harborage. The owner, occupant, or person in control of any place or premises shall take all reasonable measures to prevent such infestation or harborage and, upon notification from the Department to do so, shall take all necessary and proper steps to eliminate the infestation or harborage and to prevent its recurrence.

#### **REGULATION 2. Mosquitoes**

No person shall cause, maintain or, within his control, permit any accumulation of water in which mosquitoes breed or are likely to breed. The owner, occupant, or person in control of any place where mosquitoes are breeding, or which constitutes a breeding place for mosquitoes shall take all necessary and proper steps to eliminate the mosquito breeding and to prevent its recurrence through the elimination of or the institution of necessary control measures at mosquito breeding sites.

#### **REGULATION 3. Permit Suspended or Revoked When Premises Infested**

No person may, for fee or other consideration, offer any premises for use as a human habitation or a sleeping accommodation, or use any premises as a place where food or food products are stored, manufactured, processed, served or offered for sale while those premises harbor rodents, lice, bedbugs, roaches, flies, or other arthropods of public health significance as defined by the United States Public Health Service and the Arizona Department of Health Services. The Health Officer shall have sufficient cause to suspend a permit issued for such use when the permittee fails to abate and eliminate such infestation after having been notified to do so by the Department.



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**On April 22 at 7 p.m., Henrico County will hold a public hearing in the Government Center Board Room to consider the following standing water ordinance. If you have any questions or concerns regarding this matter, please call 501-5526 or e-mail [har25@co.henrico.va.us](mailto:har25@co.henrico.va.us)**

### ARTICLE VIII. STANDING WATER

#### Sec. 10-250. Purpose of article.

It is the purpose of this article to reduce the risk of exposure to arboviral diseases in the County, such as West Nile Virus, malaria and encephalitis, by requiring the elimination or treatment of water that is conducive to the breeding or proliferation of mosquitoes or other vectors.

#### Sec. 10-251. 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:

*Director* means the director of health or any person designated by the director for purposes of this article.

*Owner* means the principal occupants of, and persons holding title to, any land or building in the county.

*Vector* means an insect which bears and transmits diseases.

*Standing water* means any outdoor, stagnant accumulation of water which is conducive to the breeding or proliferation of mosquitoes or other vectors. Standing water does not include tidal and nontidal wetlands, as defined in Section 24-3 of the Code, moving water, fountains, or water that contains natural predators, such as fish.

#### Sec. 10-252. Penalty.

If any owner fails to eliminate or treat standing water on his property, in a manner approved by the director, within the time period provided by written notice in accordance with section 10-255, he shall, upon conviction, be guilty of a class 4 misdemeanor.

#### Sec. 10-253. Standing water prohibited.

It shall be unlawful for any owner to have standing water on his property.

#### Sec. 10-254. Report of violation.

Any person aggrieved by the presence of standing water in violation of this article may report such presence to the director.

#### Sec. 10-255. Inspection of site of violation; notice.



a.) Upon receipt of a report under section 10-254 or upon the presence of probable cause for an inspection, the director shall cause a property to be inspected in accordance with this section and pursuant to applicable constitutional and statutory provisions. When the director has determined from reports, inspections, or otherwise that a violation exists, he shall notify the owner of the property to eliminate the standing water or treat the standing water for mosquito or other vector breeding and proliferation within such reasonable time as is specified in the notice. Such notice shall be given in writing in accordance with this section and shall be complied with by the owner.


b.) The notice shall be given to the owner, the owner's agent, or person in control of the property on which the standing water is located by delivering a copy of the notice in person. If the person named in the notice cannot be found after a diligent search, such notice shall be sent by certified mail to the last known address of such person and a copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

c.) The notice shall be given to a corporation, bank, trust company or other corporate entity who is the owner of such property or who acts as the owner's agent by delivering a copy thereof to its president or such other officer, manager, or director or agent thereof in the County; or if such person cannot be found at the regular office or place of business in the County of such corporation, bank, trust company, corporate entity, by delivering a copy to any employee thereof found at such office or place of business; or if no such person is found in such office or place of business, by leaving such copy posted at the front door of such office or place of business and posting a copy of the notice in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

d.) If the owner of property on which standing water is located is unknown or has no place of abode, office or place of business in the County, or if after reasonable efforts the County cannot locate a last known address for him, notice shall be given by order of publication by publishing a copy of the notice in a newspaper of general circulation in the County at least 30 days prior to the elimination or treatment of the standing water by the director, and a copy of the notice shall also be posted in a conspicuous place on the premises.

#### **Sec. 10-256. Performance of work by county; collection of costs.**

If the owner fails to eliminate or treat standing water on his property within the time prescribed by the notice under section 10-255, or within 30 days of any publication prescribed by section 10-255, the director may cause reasonable steps to be taken to eliminate or treat the standing water. Should the owner deny his consent to such elimination or treatment, the director may proceed after obtaining a court order authorizing the elimination or treatment. Notwithstanding the notice provisions of section 10-255, if the director determines that any standing water in the County constitutes an imminent, substantial or compelling threat to the public health or environment, he shall not be required to provide notice to the owner prior to taking reasonable steps to eliminate or treat such standing water. Costs and expenses incurred by the County in eliminating or treating standing water on private property shall be assessed against the owner. The assessment shall be collected as taxes and levies are collected.

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NEWS

## Ordinance Dries Up Policy, education replaces proposed law

**Robb Crocker**

Thursday April 24, 2003

"We're going to have a policy instead of an ordinance," Henrico Deputy County Manager Angela N. Harper said Wednesday morning. "It will be similar to the ordinance, but there will be no legal penalty."

Harper was referring to the Board of Supervisors' decision to vote down an ordinance Monday night that would make having standing water on your property a finable offense. The purpose of the ordinance was to protect residents and visitors from the West Nile Virus, which is passed by infected mosquitoes. Henrico County residents have been debating and questioning the definition of standing water to the board and county officials over the past month. Ultimately, public reaction drove the county's decision.

"Citizen concern affected the decision 100 percent," Harper said. "From the time we introduced the ordinance until before the board voted, we received a lot of questions. A lot of people had specific examples."

Rather than have to enforce an ordinance, Harper says the focus will now be educating the public. The county is hiring a staff of five, which will include four field technicians, to help the public understand standing-water issues. The field technicians will be available to evaluate reported sites that are at risk and make recommendations. In addition, the county is making a video tape and numerous brochures that will help residents who have questions about standing water and the West Nile Virus. The video will be available at county offices. The county also has a hotline call center (226-NILE) that will handle any questions about standing water and the West Nile Virus. Harper says speakers will also be available to come to communities and clubs to discuss any concerns about standing water.

One concern the board had was how certain people would be able to handle at-risk situations. For example, it may be difficult for elderly people to clean their gutters or a low-income family to have a pool of standing-water drained, according to Harper.

At least 20 people showed up at the board meeting to discuss the issue and the board debated over the ordinance for 90 minutes. After the meeting, Harper said the board was showered with compliments.

"Everyone said that they felt that a policy was the best the county could

do. Many applauded the county," she said.

"Hopefully we will be able to educate and empower everyone to get rid of their standing water. If we don't have breeding sites, we don't have larva and we don't have infected mosquitoes and that means we don't have bites.

"We are enthusiastic about helping our citizens and homeowners."

Last year, Henrico had two reported cases of West Nile Virus and has pinpointed the Willow Lawn area as a spot of concern. But that doesn't mean other areas of the county aren't susceptible to standing water and the West Nile Virus. Low areas are a concern for the county as well as areas with high water tables and drainage ditches. Harper says the state or the county is responsible for drainage ditches that are next to state or county roads. Other standing water risks are unused swimming pools, yard accessories, baby pools, bird baths and trash can lids.

"We were fortunate last year -- out of 29 cases in Virginia, only two were in Henrico County. It will be a successful summer if there are no human cases," Harper said.

Henrico County will also work closely with the city of Richmond in preventing the West Nile Virus. Michael Welch, a program manager with the Department of Public Health, says county lines shouldn't end responsibility to the public.

"What's the definition of a neighborhood? A magic border line doesn't exist," he said.

Richmond has a standing water ordinance that gives offenders about four weeks to resolve the issue before the city sends out a crew to do it for you. Unfortunately, if the city comes out to drain your standing water, the city bills you for the work. Welch says Henrico County's proposed ordinance is similar to Richmond's current one except for one issue.

"Being able to hire people, they were going to be like standing water deputies," he said.

Welch says the two localities will constantly share information on areas of concern.

Richmond is in the process of cleaning out storm basins, which, Welch says are a great breeding environment for *Culex pipiens* mosquitoes. Tiger mosquitoes prefer smaller basins like buckets. In May, the city will begin to treat the storm basins with larvacide. Welch says the city is divided into four quadrants to battle standing water issues.

One telltale sign that an area is at high risk is the amount of dead birds like blue jays or crows, usually at least five to 10, Welch said.

"There's no doubt that people need to be aware that standing water is a major concern," Welch concluded.

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# THE DEMING HEADLIGHT

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## NEWS

### City adopts first vector control ordinance

By Desma Montellano  
Jun 17, 2004, 12:49 pm

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The City of Deming has adopted its first Disease Vector Control ordinance in an effort to prevent the inception of the mosquito-borne West Nile Virus. The Deming City Council unanimously approved of the ordinance, which had been revised previously and then recommended by the Planning and Zoning Commission, Monday during its meeting. In September of last year, a pool of *Culix tarsalis* species of mosquito was trapped within city limits, and tested positive for WNV. Three horses in the county also tested positive for West Nile in October of last year.

The city is continuing its vector control program, through Entomology Consultants. Individuals who own property which a storm water detention or retention pond is located, is responsible for vector control.

The city suggests using approved chemical sprays (pesticides), reducing or removing vegetation, debris that can harbor mosquitoes, removing standing water or aeration of pond water.

"If anyone is going to spray they must use someone who is licensed to do so," City Assistant Administrator Rick McInturff said. "The city's code enforcement may have a pool of people residents can contact to work with."

It is noted in the ordinance that "no chemical spray (pesticide) is 100 percent safe and care is to be exercised with use. No pesticide spray is to be used on any day with any appreciable wind capable of carrying the spray beyond the boundaries of an individual property.

Under the new ordinance, property owners are also now responsible for removing or eliminating sources of standing water on their land.

Individuals with property in the city limits is responsible for removing, eliminating or treating any water that has been standing more than five days.

Removal of standing water may include the filling of holes on site, proper disposal of old metals or plastic containers, disposal of old tires, elimination of seepage from cisterns or septic tanks, regular changes of water in bird baths and keeping water in evaporation coolers clean.

Penalties for violations of any part of the ordinance is the same as all other municipal ordinances.

"The fine is \$500 and or not more than 90 days in jail," City Administrator John Strand said during the Deming City Council meeting Monday evening. Deming's Code Enforcement Department will be pursuing compliance.

Other city ordinances regarding water which were recently adopted will appear in another addition of the Deming Headlight.

## Lates

Fireworks skyrocket warn: Not legal

New state hefty fines

New email circulating

Deming's funds from transporta

**ORDINANCE NO. 1085**

**AN ORDINANCE AMENDING TITLE 4 OF THE MUNICIPAL CODE OF THE CITY OF  
DEMING, NEW MEXICO**

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEMING,  
NEW MEXICO:

1. "Title 4 of the City of Deming Municipal Code is amended by adding thereto Chapter 4 entitled **Disease Vector Control**, as follows:

**CHAPTER 4  
DISEASE VECTOR CONTROL**

**SECTION:**

- 4-4-1:           **General Provisions**  
4-4-2:           **Definitions**  
4-4-3:           **West Nile Virus: Mosquito Abatement**

4-4-1:           **GENERAL PROVISIONS:** The following provisions for disease vector control are intended to provide a set of general community standards designed to aid in the control and prevention of vector borne diseases. These standards are intended to preserve and promote the safety, health and well-being of the residents of the City of Deming. The standards set out here are minimum standards.

4-4-2:           **DEFINITIONS:** For the purposes of this Chapter, the following words and their derivations shall have the meanings given herewith:

**ARTHROPOD:**                           Any of a large group of animals having a segmented body and legs, including insects, spiders, mites, scorpions and crustaceans.

**VECTOR:**                               An arthropod capable of carrying and transmitting diseases such as viral encephalitis, yellow fever and malaria.

**VECTOR BORNE DISEASES:**       A group of diseases made up of organisms that spend part of their life inside a mosquito, flea, tick or other arthropod, and the other part of their life inside a vertebrate.

**WEST NILE VIRUS:**                   A vector borne disease similar to other encephalitis, cycled between birds and mosquitoes and transmitted to mammals, including man, by infected mosquitoes.

4-4-3: **WEST NILE VIRUS, MOSQUITO ABATEMENT:** The following provisions shall apply to effectively control mosquitoes primarily to help prevent and/or control the inception and spread of the West Nile Virus:

- A. Stormwater Detention/Retention Ponds: Individual property owners, or any person, firm, corporation, agent, subdivider or association having a legal or equitable interest in a property on which a stormwater detention/retention pond is located shall be responsible for disease vector control, specifically the control of mosquitoes in the pond. A control program may involve such things as the use of approved chemical sprays (pesticides), reducing or removing vegetation or debris that may harbor mosquitoes, removing the standing water, aeration of the pond water, or other approved methods. A control program must be implemented where water has been standing more than five (5) days.
- B. Sources of Standing Water on Private Property: Stormwater detention/retention ponds excepted, all property owners, or any person, firm, corporation, agent, subdivider or association having a legal or equitable interest in any property in the City of Deming shall be responsible for removing or eliminating sources of standing water on the property in which he/she/they/it has/have an interest. Such removal or elimination may involve actions such as: the filling of holes on the site, proper disposal of old metal or plastic containers, proper disposal of old tires, elimination of seepage from cisterns or septic tanks, regular changes of water in bird baths, aerating ornamental ponds or pools, keeping the water in evaporation coolers clean, cleaning outside drains regularly, the removal of vegetation or debris that may harbor mosquitoes, or the use of approved chemical sprays (pesticides).

It is important to note that no chemical spray (pesticide) is 100% safe and great care is to be exercised in the use of any pesticide. The 'instruction for use' labels on any pesticide should be read and followed exactly and carefully. No pesticide spray is to be used on any day with any appreciable wind capable of carrying the spray beyond the boundaries of an individual property.

- C. Removal of Standing Water on Private Property: All property owners, or any person, firm, corporation, agent, subdivider or association having a legal or equitable interest in any property in the City of Deming shall be responsible for removing, eliminating, or treating any water that has been standing more than five (5) days on the property in which he/she/they/it has/have an interest.
- D. Enforcement: The provisions of this ordinance shall be administered and enforced by the City Code Enforcement Officer.
- E. Penalty: Any person violating any of the provisions of this Ordinance, shall be punished as provided in Section 1-4-1 of the Municipal Code of Deming, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 726, 10-10-1983).

**PASSED, ADOPTED, AND APPROVED, this 14<sup>th</sup> day of June, 2004.**

**CITY OF DEMING, NEW MEXICO**

**By: \_\_\_\_\_  
Mayor, Chairman, City Council**

**ATTEST:**

\_\_\_\_\_  
**City Clerk**



Mr. Tams: Right, it will only shock a shockable rhythm.

President Maher: If we get to an accident victim within the first five minutes, the survival rate is around 43%. I think that this will be big help with that.

Jeff Rowen: We just bought our first responder vehicle and this will be on board. If we get there before the ambulance we can give emergency care.

**HEARING**

**H-1 Release/Reduction Performance Guarantee - *Petro Services, Inc. - Gas Station***

Mr. Iglesias: We have not received any complaints and are recommending release of the bond, subject to the posting of a 15% maintenance bond.

**MOTION**

to release the performance bond of Petro Services, subject to the posting of a 15% maintenance bond by Councilman Redmond, seconded by Councilman Butler and so ordered on the following roll call vote:

AYES: Councilmen Butler, Cucchiara, Greene, Redmond, Sohor, Testino, Councilwoman Marinaccio, President Maher.

NAYS: None.

ABSENT PODIUM: Councilman Hoff.

**ORDINANCE FOR SECOND READING**

**ORD. # 40-00 Ordinance Regulating the Storage of Water Collecting Receptacles to Prevent *Mosquito Colony Formation***

**TOWNSHIP OF OLD BRIDGE**

**ORDINANCE NO. 40-00**

**AN ORDINANCE OF THE TOWNSHIP OF OLD BRIDGE  
REGULATING THE STORAGE OF MOTOR VEHICLE TIRES TO  
PREVENT MOSQUITO COLONY FORMATION**

**WHEREAS**, the West Nile Virus is a serious public health concern; and

**WHEREAS**, the virus is spread by mosquitoes; and

**WHEREAS**, mosquito breeding occurs in stagnant water that accumulates in tires and other receptacles.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Old Bridge, County of Middlesex, State of New Jersey, as follows:

**Section 1. Purpose**

This ordinance establishes regulations for the proper storage of motor vehicle tires and other water collecting receptacles to prevent mosquito breeding and to curb the spread of the West Nile Virus and other diseases.

**Section 2. Ordinance**

- a. It shall be unlawful for any residential or commercial property owner to fail to keep their property free from tires and any receptacle or condition that maintains stagnant water which will allow the breeding of mosquitoes.
- b. Commercial property owners shall
  - 1. store tires on the rim; or
  - 2. securely covered; or
  - 3. in an enclosure in a manner permitted under all applicable fire regulations; or
  - 4. in any other manner which will prevent water from collecting in tires and providing a breeding place for mosquitoes;
  - 5. keep their property free from any receptacle or condition which will allow stagnant water and breeding of mosquitoes.

**Section 3. Enforcement**

- a. This Ordinance shall be enforceable by Township of Old Bridge Department of Code Enforcement, Police Department, County of Middlesex Public Health Department, or any other designated official.
- b. Any person who violates the provisions of this Ordinance shall be subject to a penalty for each offense of not less than \$100.00 or more than \$1,000.00

**Section 4. Inconsistent Ordinances**

All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

**Section 5. Partial Invalidity**

If any section, paragraph, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, clause or provision so adjudged and the remainder shall be deemed valid and effective.

**Section 6. Effective Date**

Except as set forth in subparagraphs B and C hereof, this Ordinance shall take effect on the earlier of the following dates: (1) on the date the Mayor affixes his/her signature thereto and returns same to the Municipal Council by delivering it to the Municipal Clerk pursuant to NJSA 40A:69A-41, or (2) on the tenth day following presentment to the Mayor of the Ordinance pursuant to NJSA 40:69A-41 applicable when the Mayor has failed to return the Ordinance, whichever occurs first.

B. If the Mayor vetoes the Ordinance (in the manner set forth at NJSA 40:69A-41) this Ordinance shall be come effective upon the Township Council's vote to override the Mayor 's veto.

C. Notwithstanding any other provision hereof, this Ordinance shall not take effect less than twenty (20) days after its final passage by the Council and approval by the Mayor, where such approval is required, unless the Council shall have also adopted a resolution declaring an emergency and at least two thirds (2/3) of all the members of the council vote in favor of such resolution.

Moved by Councilman Redmond, seconded by Councilman Butler and so ordered on the following roll call vote:

AYES: Councilman Butler, Cucchiara, Greene, Hoff, Redmond, Sohor, Testino, Councilwoman Marinaccio, President Maher.

NAYS: None.

**Prior to the vote the following discussion took place**

Councilman Redmond: I think that this ordinance is a good idea, it's a preventative measure that will help the residents. I hope that other municipalities will follow suit.

Councilman Testino: I hope that this ordinance will raise awareness. I would hope that there is a warning period before we start issuing these summons.

Councilwoman Marinaccio: Does this ordinance address pools and decorative ponds that are not maintained?

President Maher: This ordinance doesn't address those problems and that is something that we can take up at another time.

Councilwoman Marinaccio: I would like to see something put in the newsletter to raise awareness for this.

Councilman Redmond: If there are any areas that are a problem, residents can call the Middlesex County Health Department and they will come out and determine if there is a health hazard.

Councilman Cucchiara: Is the Health Department for enforcing this?

President Maher: Yes.

Councilman Cucchiara: So residents can call the Health Department?

President Maher: This was first brought to my attention by a resident and I am happy to have sponsored this ordinance. It was a bi-partisan effort with a lot of input from all, to me that is good government. This will not only help with the mosquito problem, but also help us clean up the environment. I am glad that Old Bridge is a trend setter and I hope that others will follow our lead.

Councilman Sohor: I just want to clarify some points that were made. The ordinance does not only encompass tires and drums, it covers all standing water, section 2 chapter 5 states that "property owners shall keep their property free of any receptacle or condition which will allow stagnant water" also, this ordinance is enforceable not only by the Health Department but also Code Enforcement and Police.

President Maher: I would ask that Mayor sign this as soon as possible and waive her review period.

Ms. Shepler: As soon as we receive it we will send it back.

**President Maher opened the public portion.**

**Seeing no hands President Maher closed the public portion.**

**Preliminary Public Portion**

**Because all signers dealt with an item listed on the Consent Agenda President Maher moved the item up in the meeting.**

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# Alabaster Begins Fining Residents For Standing Water

## Ordinance Created To Stop Spread Of West Nile Virus

POSTED: 4:29 p.m. CDT August 20, 2002

**ALABASTER, Ala.** -- A new city ordinance could cost Alabaster residents hundreds of dollars for letting water stand in their yards.



West Nile Virus

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Under the nuisance ordinance, officials can fine people \$500 for failing to clean up standing water around their homes. Officials say it is necessary to stop the spread of West Nile virus.

Officials will begin enforcing the ordinance next week.

City officials say standing water often collects in birdbaths, planters and old tires. Old tires are commonly found on swing sets and officials recommend residents drill holes in the bottom of these tires to avoid standing water.

Alabaster resident Jean Utley believes it is important to keep the water moving or get rid of it altogether.

"I think it's a good idea," Utley said. "It's a dangerous situation and people should be aware of it."

**SURVEY**

**Should residents be fined for having standing water in their yards?**

- Yes.
- No.
- I'm not sure.

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Alabaster becomes one of the first Alabama cities to take such an aggressive step toward fighting West Nile virus. The city also plans to continue mosquito spraying five days a week.

For previous stories about West Nile virus, [click here](#).

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# Standing Water Seen as a Menace

## Concern Over West Nile Virus Could Prompt Action on Pools

By Eric M. Weiss

Washington Post Staff Writer

Saturday, May 29, 2004; Page B06

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Memorial Day weekend is not only the kickoff for the summer season; it is also the start of an intensive regionwide offensive against mosquitoes.

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In Virginia, Prince William County has declared unmaintained swimming pools an official "health menace" because they can serve as giant breeding grounds for the kinds of mosquitoes that carry West Nile virus -- a disease considered endemic to the area.

The "menace" designation allows county officials to go onto private property and remove aboveground pools, place covers on in-ground pools or put mosquito larvicide into the water.

"We're not just going to march in and throw our weight around. We will work with homeowners," said Earl Tester, a supervisor at the Prince William Health District, who said neglected pools are a significant problem in the county. "But they can't ignore the problem."

Across the region, localities are gearing up for another summer of fighting West Nile, a potentially deadly virus that has spread quickly since it was noticed in 1999.

"Standing water is a concern with every jurisdiction, and it goes beyond pools," said Sean O'Donnell, an official with the Metropolitan Washington Council of



enlarge photo

Swimming pools can be mosquito grounds. "Standing water is a concern in every jurisdiction," one official says. (L Washington Post)

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Governments. "Swimming pool covers, drain spouts, anything that can hold standing water for a week or more is a vital concern."

O'Donnell said the region's major jurisdictions have taken steps to control stagnant water where mosquitoes love to breed.

Fairfax County has hired a contractor to target storm-drain catch basins, which are being treated with the larvicide *Bacillus sphaericus*, which dissolves in water. The substance contains proteins that, when consumed, cause mosquito larvae to starve, said Jorge Arias, the county's West Nile virus program supervisor.

Fairfax also is distributing education materials in English, Chinese, Korean, Spanish and Vietnamese that give residents tips about reducing the mosquito menace, from gutter cleaning to swimming pool maintenance.

"Most people are very aware of the problem and want to resolve it," Arias said. "I don't think anyone wants a slimy swimming pool in their yard."

Montgomery County doesn't have a crew out looking for standing water, but it will respond to complaints, said Mary Anderson, a county spokeswoman.

"If someone doesn't consistently cut their knee-high grass and leaves garbage all over the place, we will [clean it up] and bill them," she said. "It is the same theory."

The District recently passed legislation to crack down on standing water, a spokeswoman with the city Health Department said.

Prince William, however, is the jurisdiction most aggressively targeting backyard pools, and officials hope the extra enforcement will capture the attention of thousands of pool owners in the county.

"We used to look at mosquitoes as a nuisance, like ants," Tester said. "But since 1999, we've had West Nile. We are now faced with a mosquito-borne disease that brings illness and death."

Prince William has 30 to 40 active investigations of "problem" pools that the county is trying to bring into compliance. Last year, the health district handled about 150 complaints about unmaintained pools and other sites with standing water. A pool is considered to be in violation if the water has turned black or

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green because of the presence of organic matter, Tester said.

"Certainly, our first approach is persuasion," Tester said. "But there is an ordinance on the books that allows us to enforce the rule, instead of just trying to convince people to do this on a voluntary basis."

Prince William has a reputation for being proactive when it comes to fighting mosquitoes. It has a mosquito control program that includes one of the few adult-mosquito spraying programs in the region.

The target of the regionwide hunt is called *Culex pipiens*, or the northern house mosquito. Of the 25 breeds of mosquitoes in Virginia, *Culex pipiens* is the most common "night biter" and is an effective carrier of West Nile. That species is known as a container breeder, and Tester said it would be possible for that mosquito to breed in a tablespoon of water left undisturbed in warm weather for three days.

Lakes and ponds are not as great a risk for mosquitoes because those bodies of water are likely to have mosquito predators, such as fish and frogs.

Tester said the source of a mosquito problem is often quite nearby, perhaps an old tire, a tarp covering firewood, old toys -- or unmaintained pools.

"People tend to grow their own mosquito problems," Tester said.

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### **Stagnant water ordinance considered**

*By Brandon Coutre*

The Normal Town Council will consider adopting an ordinance to help reduce its most despised neighbors – mosquitoes – at an upcoming council meeting.

Steve Mahrt, corporation counsel for the town of Normal, said the ordinance, which would outlaw stagnant water on property, is currently being drafted.

Mahrt said it is possible the council will see the ordinance at its Oct. 7 meeting.

Three Normal residents have complained about stagnant water on their neighbor's property, specifically in regard to swimming pools, Mahrt said.

"These residents are afraid it is a breeding ground for mosquitoes and have a fear of contracting West Nile."

The ordinance would protect against any stagnant water on property but specifically aims to target water in items such as tires, outdoor storage containers, clogged gutters and pools.

"It is wisest to try and target these kind of locations," said Steven Juliano, a biological sciences professor.

Juliano said he believes this ordinance would help to lower the mosquito population in the area.

"Reducing the amount of standing water near where people live is probably the most important thing...because these mosquitoes would have the greatest contact [with humans]," Juliano said.

There are 30 to 40 different species of mosquitoes that live in the area, Juliano said.

"People tend to think of mosquitoes as one thing. There are a lot of different ones, and they are not all a problem. It needs to be insured that the actions taken against them are targeted at the specific species that are causing the problem," Juliano said.

However, he did say the number one suspects for West Nile probably do derive in part from standing water near homes.

Mosquitoes tend to stay put, Juliano said, but have been known to travel a couple of miles. "If the location [birthplace] is near people's homes, they will feel the effects."

Mahrt said under the ordinance, if the town was to receive a complaint of stagnant water, an inspector would be sent out to determine if the water is a violation. If so, the property owner would then be advised that he or she is in violation and offered the opportunity to fix the problem.

"If there was a serious violation we could enter with a court order in order to abate the problem," Mahrt said.

Juliano said the first mosquito hatch of the season varies, but usually occurs in early April when they are in larva form in an aquatic environment. The mosquitoes then emerge as adults around May. The first freeze usually ends mosquitoes' active stage and they may go into a dormant stage.

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**News**

**Protect Yourself from West Nile Virus This Season**

**Tuesday, May 18, 2004**  
 by Joseph Brooks  
 Centennial Code Enforcement Officer

West Nile Virus has made its appearance in Colorado, and it's here to stay. The City of Centennial is encouraging its citizens to protect themselves against this virus and the mosquitoes that carry it.

- One way to battle this virus is through mosquito bite prevention. Listed below are steps that you can take to defend yourself against mosquitoes:
- Drain standing water around your property weekly. Mosquitoes lay eggs in still water. The eggs hatch in 7-10 days. Look at items including tires, cans, flowerpots, clogged rain gutters, rain barrels, toys and puddles.
  - Limit your time outdoors at dusk or dawn. These times are when mosquitoes are most active. If you have to be out during this time, please take proper precautions.
  - Dress in lightweight, long sleeves and long pants during dusk and dawn, and where mosquitoes are active.
  - Spray clothing with insect repellent containing DEET. Apply same repellent to exposed skin sparingly. Effective repellents will contain up to 35% DEET. Use products with 30% or less DEET for children over 2 months in age. ALWAYS follow label instructions carefully.

All residents in areas where West Nile virus activity has been confirmed are at risk. While this disease is relatively rare, most individuals who are infected will experience only symptoms. Some will not even get sick at all. However, West Nile Virus can be fatal in some circumstances.

Symptoms may include high fever, severe headache, neck stiffness, muscle weakness and tremors, disorientation, convulsions and coma. People experiencing these symptoms should seek medical attention immediately.

Due to the threat of the spread of West Nile Virus carried by mosquitoes, The City of Centennial has determined that bodies of standing water can serve as mosquito habitat and breeding areas constitute a public nuisance and public threat to citizens.

For that reason, Centennial has adopted an ordinance allowing the abatement of water-related nuisances on private property. Under Title 7 of the Centennial Municipal Code, a citizen can contact the city office if they believe insect breeding or habitat waters exist within the City of Centennial. The City is working closely with Arapahoe County and Tri-County Health Department to help control the threat of West Nile Virus in this area.

To file a complaint on water-related nuisances, please contact Code Enforcement at 303-754-3320. If you have questions about West Nile Virus, contact the Colorado Health Education Line for the Public (CO-HELP) at 1-877-462-2911 between 7 a.m. and 11 p.m. daily. Operators will be available to provide information on virus symptoms and infection in humans and animals.

For information about West Nile Virus and its prevention:  
[www.fightthebitecolorado.com](http://www.fightthebitecolorado.com)

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