

CHAPTER 10

PUBLIC NUISANCES

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10.01 PUBLIC NUISANCES PROHIBITED. No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the City.

10.02 PUBLIC NUISANCE DEFINED. A public nuisance is a thing, act, occupation, condition or use of property, which shall continue for such length of time as to:

- (a) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
- (b) In any way render the public insecure in life or in the use of property.
- (c) Greatly offend the public morals or decency.
- (d) Unlawfully and substantially interfere with, obstruct or tend 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.

10.03 PUBLIC NUISANCES AFFECTING HEALTH (Rep. & Recr. Ord. #854, Amd. Ord. #1095). The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of sec. 10.02 above:

- (1) ADULTERATED FOOD. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- (2) UNBURIED CARCASSES. Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- (3) BREEDING PLACES FOR VERMIN, ETC. (Amended with Ord. #1033) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
 - (a) Said materials shall be stored in garbage cans which are fly tight.
 - (b) No garbage or recyclable items shall be placed at the curb for pickup more than 24 hours prior to scheduled pickup.
- (4) STAGNANT WATER. All stagnant water in which mosquitoes, flies or other insects can multiply.
- (5) NOXIOUS WEEDS. All noxious weeds and other rank growth of vegetation. All weeds and grass shall be kept cut to a height of not to exceed one foot. The City may cause all weeds and grass not conforming to be cut and removed and brush to be removed, and the cost thereof charged to the property, pursuant to §66.0407, Wis. Stats. Noxious weeds are defined to be Canada Thistle, Leafy Spurge, Quackgrass, Sow Thistle, Ragweed, Poison Ivy, Poison Oak, Goldenrod and Field Bindweed (Creeping Jenny).

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- (a) The Weed Commissioner shall notify all property owners whose address can be reasonably obtained of the growth of vegetation on his property, which is in violation of this section. The notification shall be by first class mail.
- (b) The notification shall contain the following information:
 - 1. Vegetation growth control shall be undertaken within 5 days of the date of the notice.
 - 2. After the 5-day period (subpar. 1. above) has expired, the City will then control said vegetation growth and the cost of same will be assessed to the property owner in accordance with §66.0627, Wis. Stats. and the policy established by the City Department of Public Works.
- (6) WATER POLLUTION. The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- (7) NOXIOUS ODORS, ETC. Any use of property, substances or things within the City emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stench extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the City.
- (8) STREET POLLUTION. Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the City.
- (9) AIR POLLUTION. The escape of smoke, soot, cinders, noxious acids, fumes, fly ash, industrial dust or other atmospheric pollutants within the City limits or within one mile there from in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the City.

10.04 PUBLIC NUISANCES OFFENDING MORALS AND DECENCY. The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to

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- (1) DISORDERLY HOUSES. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- (2) GAMBLING DEVICES. All gambling devices and slot machines.
- (3) UNLICENSED SALE OF LIQUOR AND BEER. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by this Code.
- (4) CONTINUOUS VIOLATION OF CITY ORDINANCES. Any place or premises within the City where City ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- (5) ILLEGAL DRINKING (Am. Ord. #739). Except as provided in sec. 9.16 (9) of this Code, the drinking of any intoxicating beverages or the carrying of any open container which contains an intoxicating beverage is prohibited in the following areas:
 - (a) On private property without owner's consent.
 - (b) On any street, roadway, alley, parking lot or sidewalk.

10.05 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY. The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of sec. 10.02 of this chapter:

- (1) SIGNS, BILLBOARDS, ETC. All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- (2) ILLEGAL BUILDINGS. All buildings erected, repaired or altered in violation of the provisions of this Code relating to materials and manner of construction of buildings and structures within the City.
- (3) UNAUTHORIZED TRAFFIC SIGNS. All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad

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sign or signal or which, because of its color, location, brilliance, or manner of operation, interferes with the effectiveness of any such device, sign or signal.

- (4) OBSTRUCTION OF INTERSECTIONS. All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

Ord. 870 repeals (5), (6), (7), (8)

- (9) FIREWORKS. All use or display of fireworks, except as provided by state laws and City ordinances.
- (10) DILAPIDATED BUILDINGS. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- (11) WIRES AND CABLES OVER STREETS. All wires and cables over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.
- (12) NOISY ANIMALS OR FOWL. (Rec. Ord. 975.) The keeping or harboring of any animal or fowl which by howling, yelping, barking, crowing or making of other noises greatly annoys or disturbs the neighborhood or any considerable number of persons within the City.
- (13) OBSTRUCTIONS OF STREETS; EXCAVATIONS. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by this Code or which are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or do not conform to the permit.
- (14) UNLAWFUL ASSEMBLIES. Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

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10.055 STORAGE OF JUNK, NUISANCE VEHICLES, RECREATIONAL EQUIPMENT AND FIREWOOD (Cr. Ord. #745; Rep. & Recr. Ord. #850; Amd. Ord #1162. Amd. Ord #1375) –

- (1) DEFINITIONS. The following words, phrases and terms used in this section shall be interpreted as follows:
 - (a) Motor Vehicle. Includes mobile homes, mopeds, motor bicycles, motor trucks and motor vehicles as defined in Ch. 340, Wis. Stats.
 - (b) Nuisance Motor Vehicles. (Am. Ord #1017; Am. Ord #1162) Includes any inoperable, unlicensed, unregistered, license expired, unroadworthy, disassembled or wrecked vehicle or, in the case of a motor home shall include a motor home unfit for human habitation. A vehicle for which a license has been applied for shall herein be deemed a licensed vehicle if proof of application is prominently displayed.
 - (c) Junk. Worn out or discarded material of little or no value, including, but not limited to, household appliances or parts thereof, machinery and equipment or parts thereof, vehicles or parts thereof, tools, discarded building materials, or any other unsightly debris, except in an enclosure which houses such property from public view or upon permit issued by the Council.
 - (d) Recreation Equipment. Boats, canoes, trailers, mobile homes, campers, off-highway vehicles and snowmobiles.
- (2) STORAGE OF NUISANCE MOTOR VEHICLES, ETC. [Amd. Ord. 1289]
 - (a) Restricted. It shall be unlawful for any person to accumulate, store or allow any "nuisance motor vehicle" in the open upon any public or private property in the City for a period exceeding 72 hours.

- (b) Exceptions. 1. Any salvage and/or junk yards located in a properly zoned district may retain no more than 3 "nuisance motor vehicles" in the open for a period not to exceed 30 days, after which such vehicles shall be removed. A vehicle that is operable but is unlicensed must be either removed or licensed within 30 days after notice from the Police Department to the owner or person storing said vehicle.
- (3) STORAGE OF JUNK PROHIBITED. It shall be unlawful for any person, except a junk dealer, to accumulate, store or allow any junk outside of any building on any public or private real estate located in the City.
- (4) STORAGE OF RECREATIONAL EQUIPMENT. It shall be unlawful for any person to store any recreational equipment on any street right of way or within the front setback, including the driveway, for a period of more than 48 hours.
- (5) STORAGE OF FIREWOOD REGULATED. It shall be unlawful for any person to store firewood on any residential premises, except for use on the premises. No firewood pile may be located within the front setback or within 5 feet of any side or rear property line.
- (6) VARIANCE. (a) Application. In the event any person shall encounter great practical difficulty in complying with the provisions of subs. (6) or (7) above because of lot size, location of buildings or topography, such person may file an application for a variance with the Building Inspector on a form supplied by the Building Inspector.
- (b) Limitation. Any variance granted by the Building Inspector shall be limited to recreation vehicles, which may be parked in the driveway within the front setback between April 1 and November 1 of each year, provided that the sidewalk is not blocked.
- (c) Grant or Denial of Application. The Building Inspector shall review the application and view the premises. He shall grant or deny the variance in accordance with the provisions of this subsection.
- (d) Appeal. Any person aggrieved by any determination of the Building Inspector under this subsection may file a written appeal with the Council within 30 days.

(7) NUISANCE MOTOR VEHICLES, REMOVAL.

- (a) Authority to Tow. Subject to the procedures hereinafter set forth, nuisance motor vehicles may be towed and stored by the Police Department at the cost and expense of the owner thereof. Unclaimed towed vehicles may be disposed of by towers through means and procedures authorized by law.
- (b) Notice of Intent to Tow Private and/or Public Property and Rights. of Way. The owner of a nuisance motor vehicle which is upon private and/or public property or rights of way shall be notified of a violation of this section and provided with 3 full business days to repair, assemble, make the vehicle operable and roadworthy and license any vehicle which may not be licensed or in the alternative place such vehicle in a garage or enclosed structure, or place the vehicle within a duly authorized and licensed sales, repair or salvage business lawfully operating within a properly zoned area and in compliance with all State and local laws, rules, regulations, licenses and permits. With regard to motor homes, the owner shall have a period of not more than thirty (30) days to render the motor home suitable for human habitation.
- (c) Service of Notice of Intent to Tow Computation of Time; Private and/or Public Property. Streets, Alleys and Rights of Way. If the owner of a nuisance motor vehicle, which vehicle is upon private and/or public property, street, alley or right of way can be reasonably determined, said owner shall be given oral and/or written notice of intent to tow and in addition thereto, a stick-on or otherwise waterproofed and fastened notice shall be posted on the nuisance motor vehicle, which notice shall be deemed adequate in the event that there is no oral and/or written notice provided to the owner of said vehicle. The 3-day time limit provided to procure voluntary compliance with this section shall commence to run at such time as the said vehicle is posted. In the case of mobile homes, the 30 days time limit provided to procure voluntary requirements with this Section, shall commence at such time as the said vehicle is posted.
- (d) Extensions of Time The Police Department, for good cause, upon the nuisance motor vehicle owner's request, may grant a reasonable extension of any time limit imposed herein to enable a nuisance motor vehicle owner to voluntarily comply with this section.

- (e) Controlling of Period of Time Provided to comply With This Section. The period of time with which an owner of a nuisance motor vehicle is provided hereunder to comply with this section in order to avoid a tow shall not be tolled by the fact of a temporary removal of said vehicle from the place whereupon the violation of this section was noticed to occur under circumstances where the vehicle continues to be a nuisance motor vehicle.

- (f) Hearing. The notice of intent to tow shall provide the owner of a nuisance motor vehicle with an opportunity to request a hearing before a designee of the Police Chief to enforce this section. Where a hearing is requested within the time provided for in this section, no action shall be taken to tow the vehicle or issue a citation hereunder until the hearing is held. However, said owner may be required to appear for a hearing to be scheduled within 24 hours of the request. The failure of the owner to appear at a scheduled hearing shall constitute a waiver of said right to a hearing. Hearings may be conducted over the telephone at the request of or with the consent of the nuisance motor vehicle owner. The purpose of a hearing hereunder is to permit the nuisance motor vehicle owner to show that the nuisance motor vehicle sought to be towed is not, in fact, a nuisance motor vehicle which is subject to tow hereunder. The person conducting said hearing, which shall be informal, shall note, in writing, the facts presented and position of the nuisance motor vehicle owner, shall mark and retain exhibits and shall determine, in writing, whether or not this section has been violated. If this section has been determined by said person to have been violated, the nuisance motor vehicle owner shall be notified of a compliance date, which shall be reasonable under all of the circumstances.

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- (g) Appeal. Appeal shall be as hereinafter provided, the City electing not to be governed by Ch. 68, Wis. Stats. An aggrieved party desiring to appeal from a hearing determination may file a written notice of appeal which must be received by the Police Department prior to the expiration of the time for compliance with this section provided for in the notice of intent to tow. The notice of appeal shall state the error alleged in the initial decision and shall provide the address and telephone number of appellant. The review shall be upon the record and a written determination affirming or denying the initial decision maker shall be made. No vehicles shall be towed until the appeal process is completed and then only where the decision of the initial decision maker finding a violation of this section is upheld, and only after the appellant has been notified of the appeal decision and given at least 24 hours to comply with this section. Further appeal would be by writ of certiorari to the Circuit Court.

- (h) Notice of Towing. Where a nuisance motor vehicle is towed hereunder and where the owner and owner's address of the towed vehicle is known or reasonably ascertainable to the person who authorized the tow, said owner shall be provided notice, either personally or by regular mail, that the vehicle has been towed by a certain tower to a certain location. The owner shall be provided with tower's telephone number and advised that the vehicle should be claimed therefrom, upon payment of the appropriate towing and storage charges, as soon as possible for daily storage charges are accumulating. The notice shall also indicate that the vehicle may be disposed of by the tower to recoup such charges in a manner and through a procedure authorized by law.

- (i) Agreement Defend, Indemnify and Hold Harmless. The City will defend or pay for the defense of any tower towing under this section and will indemnify and hold harmless any tower towing under this section from any loss, damages, costs or expenses which he may sustain, incur or be required to pay should any person or party make claim or commence a law suit against any such tower where the basis for the claim or law suit is an allegation that this section is unconstitutional on its face or in its application. A prerequisite for the above City obligation is written notice by a tower of a claim or lawsuit to the Clerk-Treasurer within 5 days of the receipt thereof and a tender of the defense thereof to the City.

10.06 ABATEMENT OF PUBLIC NUISANCES (Am. Ord. #303).

- (1) ENFORCEMENT The Chief of Police, the Chief of the Fire Department, the Building Inspector and the Health Officer shall enforce those provisions of this chapter that come within the jurisdiction of their respective offices, and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does in fact exist.
- (2) SUMMARY ABATEMENT. If the inspecting officer shall determine that a public nuisance exists within the City and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Mayor or Administrator may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
- (3) ABATEMENT AFTER NOTICE. (Am. Ord. #1167; Amd. Ord. #1189; Amd. Ord. #1212) If the inspecting officer shall determine that a public nuisance exists on private premises, but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove as described in sub. A and b below. If such nuisance is not removed within the time given on the notice, the proper officer shall cause the nuisance to be removed as provided in sub. (2) above.
 - a. Public Nuisances, not including structures, shall be removed within 5 days.
 - b. Public Nuisances, which are structures, shall be removed within 30 days.
- (4) OTHER METHODS NOT EXCLUDED. Nothing in this chapter 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.
- (5) COURT ORDER. Except when necessary under sub. (2) above, no officer hereunder shall use force to obtain access to private property to abate a public nuisance, but shall request permission to enter upon private property if such premises are occupied, and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.

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- 10.07 COST OF ABATEMENT. In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the City shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.
- 10.08 PENALTY. Any person who shall violate any provision of this chapter or permit or cause a public nuisance shall be subject to a penalty as provided in sec. 25.04 of this Code.