

CHAPTER 10

PUBLIC NUISANCES

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PUBLIC NUISANCES 10.01

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

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:

- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
- (2) In any way render the public insecure in life or in the use of property.
- (3) Greatly offend the public morals or decency.
- (4) 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. 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 definitions of sec. 10.02 above:

- (1) **ADULTERATED FOOD.** All decayed, 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 foods which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- (3) **BREEDING PLACES FOR VERMIN, ETC.** 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.
- (4) **STAGNANT WATER.** All stagnant water in which mosquitoes, flies or other insects can multiply.
- (5) **GARBAGE CANS.** Garbage cans which are not flytight.

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(6) ANIMALS. All animals running at large.

(7) AIR POLLUTION. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the Village limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.

(8) NOXIOUS WEEDS. All noxious weeds, as defined in S. 66.96(1), Wis. Stats. In addition, other rank growth of vegetation, and all weeds, grasses and plants over 12 inches in height, excluding trees and shrubs, which:

(a) Detract from the surrounding area and properties.

(b) Become a possible fire hazard, as determined by the Fire Chief.

(c) Become a health hazard due to their pollen or a potential cover for disease-carrying rodents and other small animals.

(d) Are of infectious or poisonous nature in or adjacent to a populated area, regardless of height.

(e) Become a potential hazard to vehicular traffic in vision clearance triangles.

(9) 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.

(10) NOXIOUS ODORS, ETC. Any use of property, substances or things within the Village emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village.

(11) 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 Village.

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(12) **GARBAGE AND REFUSE.** The deposit of garbage, refuse or any offensive substance on any public or private property except as may be permitted by this Code.

(13) **PESTICIDE APPLICATION.** The application, or causing of the application, of any pesticide, as defined in S. 946.67(25), Wis. Stats., in such a manner as to endanger the health of persons within the Village.

(14) **SOLID FUEL FIRED HEATING DEVICES.** A device designed for solid fuel combustion so that usable heat is derived for the interior of a building, and includes but is not limited to solid fuel fired stoves, furnaces or boilers which burn solid fuel. Nothing in this section shall be construed to prohibit household fireplaces, or grills for cooking food.

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 exclude other nuisances offending public morals and decency coming within the definition of sec. 10.02 of this chapter:

(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 VILLAGE ORDINANCES.** Any place or premises within the Village where Village ordinances or State laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

(5) **ILLEGAL DRINKING.** Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of State laws or this Code.

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 or altered in violation of the provisions of this Code relating to the manner of construction of buildings and structures within the Village.

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

(5) **TREE LIMBS.** All limbs of trees which project over and less than 8 feet above any public sidewalk or less than 15 feet above a street or other public place.

(6) **DANGEROUS TREES.** All trees which are injurious to public health or safety because of a diseased or damaged condition; and the storage of cut elm wood, unless such wood is debarked or sprayed with an effective elm bark beetle destroying insecticide.

(7) **FIREWORKS.** All use, possession or display of fireworks except as provided by the laws of the State and this Code.

(8) **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.

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(9) **WIRES AND CABLES OVER STREETS.** All wires and cables over streets, alleys or public grounds which are strung less than 18 feet above the surface thereof.

(10) **NOISY ANIMAL OR FOWL.** The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly disturb a neighborhood or any considerable number of persons within the Village.

(11) **UNNECESSARY NOISE.** All loud, discordant and unnecessary noises or vibrations of any kind.

(12) **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, although made in accordance with this Code, 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.

(13) **UNLAWFUL ASSEMBLY.** 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.

(14) **SNOW, ICE AND DEBRIS REMOVAL.** All debris not removed, and all snow and ice not removed or sprinkled with salt, ashes, sawdust or sand, as provided in sec. 8.04 of this Code.

(15) **REFRIGERATORS.** All unabandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.

(16) **OPEN PITS, BASEMENTS, ETC.** All open and unguarded pits, wells, excavations and basements.

(17) **FLAMMABLE LIQUIDS VIOLATIONS.** Repeated or continuous violations of this Code or the laws of the State relating to the storage of flammable liquids.

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(18) FIRE HAZARDS. Any structure, material or condition which constitutes a fire hazard or will impair extinguishing of any fire.

(19) STATUTORY NUISANCES. Any nuisance so defined by the Wisconsin Statutes.

10.06 JUNK, CERTAIN VEHICLES, RECREATIONAL EQUIPMENT AND FIREWOOD.

(1) PUBLIC NUISANCES DECLARED. The following are hereby declared to be public nuisances wherever they may be found within the Village.

(a) Any motor vehicle, truck body, tractor or trailer as enumerated in sub. (3) and (4) below and defined in sub. (2) (a), (b) and (c) below.

(b) Any junk stored contrary to sub. (5) below.

(c) Any recreational equipment stored contrary to sub. (6) below.

(d) Any firewood used or stored contrary to sub. (7) below.

(2) DEFINITIONS. The following words, phrases and terms used in this section shall be interpreted as follows:

(a) Disassembled, Inoperable, Junked or Wrecked Motor Vehicles, Truck Bodies, Tractors, Trailers. Motor vehicles, truck bodies, tractors or trailers in such state of physical or mechanical ruin as to be incapable of propulsion or being operated upon the public streets or highways.

(b) Unlicensed Motor Vehicles, Truck Bodies, Tractors or Trailers. Motor vehicles, truck bodies, tractors or trailers which do not bear lawful current license plates.

(c) Motor Vehicles. As defined in S. 340.01(35), Wis. Stats.

(d) 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, the accumulation of which has an adverse effect upon neighborhood or Village property values, health, safety or general welfare.

PUBLIC NUISANCES 10.06(2)(e)

(e) Recreation Equipment. Boats, canoes, boat and utility trailers, mobile homes, campers, off-highway vehicles and snowmobiles.

(f) In the Open. Land which may be viewed from public streets or adjoining property.

(3) STORAGE OF INOPERABLE VEHICLES, ETC.

(a) Restricted. No person shall accumulate, store or allow any disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors or trailers in the open upon any public or private property in the Village for a period exceeding 72 hours.

(b) Exceptions.

1. Any business engaged in automotive sales or repair located in a properly zoned district may retain no more than 3 disassembled or wrecked vehicles in the open for a period not to exceed 30 days, after which such vehicles shall be removed.

2. Junk yards licensed under sec. 12.06 of this Code.

(4) STORAGE OF UNLICENSED VEHICLES, ETC.

(a) Restricted. No person shall accumulate, store or allow any unlicensed motor vehicle, truck body, tractor or trailer in the open upon any public or private property in the Village for a period exceeding 72 hours.

(b) Exceptions.

1. Any business engaged in the sale, repair or storage of such unlicensed vehicles in a properly zoned district.

2. Garden tractors and mowers may be stored in the rear yard not less than 10 feet from any property line.

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(5) **STORAGE OF JUNK PROHIBITED.** No person, except a junk dealer licensed under sec. 12.06 of this Code, shall accumulate, store or allow any junk outside of any building on any public or private real estate located in the Village.

(6) **STORAGE OF RECREATIONAL EQUIPMENT REGULATED.** No person will 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.

(7) **STORAGE OF FIREWOOD.**

(a) **Regulated.** No person shall 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.

(b) **Exception.** Any firewood pile located contrary to the provisions of par.(a) above on the effective date of this subsection need not be moved to a place of compliance until June 1, 1986.

(8) **ISSUANCE OF CITATION; ACTION TO ABATE.** Whenever the Building Inspector shall find any such vehicle, junk or recreational equipment, as defined in sub. (2) above, accumulated, stored or remaining in the open upon any property within the City contrary to the provisions of subs.(3), (4), (5) and (6) above, or firewood stored contrary to sub. (7) above, he shall notify the owner of said property on which such vehicle, junk, recreational equipment or firewood is located of the violation of this section. If such vehicle, junk, recreational equipment or firewood is not removed within 10 days, the Building Inspector shall cause a citation to be issued to the property owner or the occupant of the property upon which such vehicle, junk, recreational equipment or firewood is located. In addition, action to abate such nuisance may be commenced, as provided in sec. 10.09 of this chapter.

(9) **PENALTY.** Any person who shall be adjudicated to have violated any of the provisions of this section shall be subject to a forfeiture not to exceed \$50 plus the costs of said prosecution, and, upon default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not to exceed 10 days. Each day that a violation of this section continues shall be deemed a separate offense.

10.07 DISEASED AND INFECTED TREE CONTROL.

(1) PUBLIC NUISANCES DECLARED. The following are hereby declared to be public nuisances wherever they may be found within the Village.

(a) Any living or standing tree or part thereof infected with the Dutch Elm disease or other tree diseases.

(b) Any dead, diseased or infected tree or part thereof, including logs, branches, stumps, firewood or other material from which the bark has not been removed and burned or sprayed with an effective fungicide or insecticide.

(c) Any living or standing female box elder, *Acer negundo*.

(2) NUISANCES PROHIBITED. No person shall permit any public nuisance as defined in sub. (1) above to remain on any premises owned or controlled by him within the Village.

(3) INSPECTION. The Director of Public Works may enter upon private premises at all reasonable times for the purpose of carrying out any of the provisions of this section.

(4) ABATEMENT OF DISEASE NUISANCES.

(a) Whenever the Director shall find, with reasonable certainty on examination or inspection, that any public nuisance as defined in this section exists within the Village, he shall cause it to be sprayed, removed, burned or otherwise abated in such manner as to destroy or prevent as fully as possible the spread of the disease fungus or the insect pests or vectors known to carry such disease.

(b) Before abating any such nuisance on private premises or in any terrace strip between the lot line and the curb, the Director shall proceed as follows:

1. If the Director shall determine that danger to other trees from said nuisance is not imminent, he shall make a written report of his findings to the Village Board who shall proceed as provided in S. 27.09(4), Wis. Stats.

PUBLIC NUISANCES 10.07(4)(b)2

2. If the Director shall determine that danger to other trees within the Village is imminent, he shall notify the owner or abutting owner of the property on which such nuisance is found in writing, if he can be found, otherwise by publication in a newspaper of general circulation in the Village that the nuisance must be abated as directed in the notice within a specified time, which shall not be less than 10 days from the date of such notice unless the Director shall find that immediate action is necessary to prevent spread of infection. If the owner fails to comply with the notice within the time limited, the Director shall cause the abatement thereof.

(c) No damage shall be awarded to the owner for destruction of any tree, wood or material or any part thereof pursuant to this section.

(5) SPRAYING OF TREES.

(a) Whenever the Director shall determine that any tree or material within or near the Village is infected with a disease, he may cause to be sprayed all high value trees within a 1,000 foot radius thereof with an effective spray, provided such spraying shall be performed prior to July 15 or after October 15 of any year.

(b) Before causing the spraying of any tree on private property in accordance with this section, the Director shall notify the owner, as provided in sub. (4) (b) 2. above.

(6) ASSESSMENT OF COSTS OF ABATEMENT AND SPRAYING.

(a) The entire cost of abating any public nuisance as defined in sub. (2) above or of spraying any tree in accordance with sub. (4) above may be charged to and assessed against the parcel or lot abutting on the street, alley, boulevard or parkway upon or in which such tree is located or the parcel or lot upon which such tree stands in accordance with S. 66.60(16), Wis. Stats.

(b) The Director shall keep strict account of the costs of work done under this section and shall report monthly to the Clerk-Treasurer all work done for which assessments are to be made, stating and certifying the description of the land, lots, parts of lots or parcels of land and the amounts chargeable to each. The Clerk-Treasurer shall include in his report to the Village Board the aggregate amounts chargeable to each lot or parcel so reported, and such amounts shall be

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levied and assessed against such parcels or lots in the same manner as other special taxes.

10.08 WEED CONTROL.

(1) **NOXIOUS WEEDS AND RANK GROWTH PROHIBITED.** No owner or occupant of any lot or parcel shall allow such property to become overgrown with any weeds or grass so as to constitute a public nuisance, as defined in sec. 10.03(8) of this chapter.

(2) **NOTIFICATION.** The Village President shall, annually, on or before May 15, publish a Class 2 notice, under Ch. 985, Wis. Stats., that every person is required by law to destroy all noxious weeds and other rank growth of vegetation as defined in sec. 10.03(8) of this chapter, on lands in the Village which he owns, occupies or controls.

(3) **ENFORCEMENT.** If a property owner fails to control the growth of such weeds or rank growth of vegetation on his property, the Village Weed Commissioner shall serve upon him notice as to this fact. If such owner fails to abate this nuisance within 5 days after service of the notice, the Weed Commissioner shall take action to abate such public nuisance.

(4) **COSTS.** If the Village causes a nuisance to be removed as provided in sub. (3) above, the actual cost thereof, together with an administrative fee equal to 10% of the actual cost, shall be charged to the property owner. If such charges are not paid by November 15 of the year in which they are billed, such charges, together with an additional administrative fee for collection equal to 10% of the total of such charges and fees, shall be extended on the next succeeding tax roll as a tax charged against the property affected and collected in the same manner as are other taxes, pursuant to S. 66.98, Wis. Stats.

10.09 ABATEMENT OF PUBLIC NUISANCES.

(1) **ENFORCEMENT.** It shall be the duty of the Building Inspector, the Director of Public Works, and the Fire Inspector to enforce the provisions of this chapter 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.

(a) Notice to Owner. If the inspecting officer shall determine that a public nuisance exists within the Village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Village President shall cause notice to be served on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within 24 hours and shall state that unless such nuisance is so abated, the Village shall cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(b) Abatement by Village. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the officer having the duty of enforcement shall cause the abatement or removal of such public nuisance.

(3) ABATEMENT BY COURT ACTION. 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 and the owner of the property to remove the same within 10 days. If such nuisance is not removed within 10 days, he shall report such fact to the Village President, who may direct the Village Attorney to commence an action in Circuit Court for the abatement of the nuisance.

(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, nor as prohibiting an action to be commenced in the Circuit Court seeking a forfeiture as provided in sec. 10.10 of this chapter.

(5) 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 Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and

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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.

10.10 PENALTY. In addition to the penalties provided in this chapter, 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.