

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 continues 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 specifically declared to be public health nuisances coming within the definition of S 10.02:

- (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 food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- (3) **BREEDING PLACES FOR INSECTS OR VERMIN.** Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material in which flies, mosquitoes, disease carrying insects, rats or other vermin can breed.
- (4) **STAGNANT WATER.** All stagnant water in which mosquitoes, flies or other insects can multiply.
- (5) **PRIVY VAULTS AND GARBAGE CANS.** Privy vaults and garbage cans which are not flytight.
- (6) **NOXIOUS WEEDS.** All noxious weeds and other rank growth of vegetation. All weeds and grass shall be kept cut to a height not to exceed 6". The Village may cause all weeds and grass to be cut and removed and brush to be removed and the cost thereof charged to the property under S 66.60(16), Wis. Stats.

- (7) NOXIOUS ODORS, ETC. Any use of property, substances or things within the Village emitting or causing any foul, offensive, noisome, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number or persons within the Village.
- (8) STREET POLLUTION. Any use of property which causes any noxious or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Village.
- (9) AIR POLLUTION. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Village or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or threaten the cause substantial damage to property in the Village.

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

- (1) DANGEROUS SIGNS, BILLBOARDS, ETC. All signs, 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 Village ordinances relating to materials and 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 official traffic control devices or railroad signs or signals or which, because of their color, location, brilliance or manner of operation, interfere 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, highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (5) LOW HANGING TREE LIMBS. All limbs of trees which project over and less than 10' above any public sidewalk, street or other public place.

- (6) DANGEROUS TREES. All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- (7) FIREWORKS. All use or display of fireworks except as provided by State laws and Village ordinances.
- (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. See S 66.05, Wis. Stats.
- (9) LOW HANGING WIRES OR CABLES. All wires and cables over streets, alleys or public grounds which are strung less than 15' above the surface thereof.
- (10) NOISY ANIMALS 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, greatly annoys or disturbs a neighborhood or any considerable number of persons within the Village.
- (11) OBSTRUCTIONS OF STREETS; EXCAVATIONS. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by ordinances of the Village but including those which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished or which do not conform to the permit.
- (12) VEHICLES UNDER REPAIR. All vehicles on jacks, blocks or elevated in any manner, which are outside on public or private property, must be attended at all times, except that a period of up to three hours shall be allowed for obtaining parts or services to such vehicle. At all other times when the vehicle is unattended it shall not be elevated in any manner and all wheels must be in place and secure.

10.05 ABANDONMENT OF VEHICLES PROHIBITED. (Cr. #62) No person shall leave unattended any motor vehicle, trailer, semi-trailer or mobile home on any public street or under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Whenever any such vehicle has been left unattended on any street or highway in the Village or upon private or public property without the permission of the property owner or other person charged with the lawful jurisdiction thereof for more than 72 hours, the vehicle shall be abandoned and constitutes a public nuisance.

- (1) DEFINITIONS. For purposes of this section, the following definitions shall be applicable:

Street. Any public highway or alley and shall mean the entire width between the boundary lines of any public way where any part thereof is open to the public for purposes of vehicular travel.

Unattended. Unmoved from its location with no obvious sign of continuous human use.

Vehicle. A motor vehicle, trailer, semi-trailer or mobile home, whether or not such vehicle is registered under Wisconsin law.

- (2) PRESUMPTIONS. For purposes of this section, the following irrefutable presumptions shall apply:
- (a) A vehicle shall be presumed unattended if it is found in the same position 72 hours after issuance of a traffic ticket or citation and if such traffic ticket or citation remains placed upon the windshield during such 72 hours.
 - (b) Any vehicle left unattended for more than 72 hours on any public street or public ground or left unattended for more than 72 hours on any private property without the consent of the property owner is deemed abandoned and constitutes a nuisance, provided that the vehicle shall not be deemed abandoned under this section if left unattended on private property outside of public view or if designated as not abandoned by the Chief of Police.
- (3) EXCEPTIONS. This section shall not apply to a vehicle in an enclosed building, a vehicle stored on a premises licensed for storage of junk or junked vehicles or to a vehicle parked in a paid parking lot or space where the required fee has been paid.
- (4) REMOVAL AND IMPOUNDMENT OF VEHICLES. Any vehicle in violation of this section shall be removed and impounded until lawfully claimed or disposed of under the provisions of sub. (6).

(5) REMOVAL, STORAGE, NOTICE OR RECLAIMER OF ABANDONED VEHICLES.

The provisions of this subsection shall apply to the removal, storage, notice, reclaimer or disposal of abandoned vehicles.

(a) Removal.

1. Any police officer who discovers any motor vehicle, trailer, semi-trailer or mobile home on any public street or highway or private or public property in the Village which has been abandoned shall cause the vehicle to be removed to a suitable place of impoundment.
2. Upon removal of the vehicle, the police officer shall notify the Police Chief or his designee of the abandonment and of the location of the impounded vehicle.

(b) Storage and Reclaimer. Any abandoned vehicle which is determined by the Police Chief or his designee to be abandoned shall be retained in storage for a period of 14 days after certified mail notice as hereinafter provided has been sent to the Wisconsin titled owner and/or secured party of record with the Wisconsin Motor Vehicle Division, except that if the Police Chief or his designee determines an abandoned vehicle to have a value of less than \$100 or that the cost of towing and storage charges for impoundment will exceed the value of the vehicle, it may be junked or sold by direct sale to a licensed salvage dealer after having been retained in storage for a period of 7 days and after certified mail notice as hereinafter provided has been sent to the Wisconsin title owner or secured party of record with the Wisconsin Motor Vehicle Division, provided that it is first determined that the vehicle is not reported stolen or wanted for evidence or other reason. Any such vehicle which may be lawfully reclaimed may be released upon payment of all accrued charges, including towing, storage and notice charges, and upon presentation of the vehicle title or other satisfactory evidence to the Police Chief or his designee to prove an ownership or secured party interest in such vehicle.

(c) Notice to Owner or Secured Party. Certified mail notice as referred to herein shall notify the Wisconsin titled owner of the abandoned vehicle, if any, and/or the secured party of record with the Wisconsin Motor Vehicle Division, if any, that the vehicle has been deemed abandoned and impounded by the Village; the "determined value" of the abandoned vehicle or if the cost of towing and storage charges will exceed the determined value of the vehicle; that if the vehicle is not wanted for evidence or other reason, the vehicle may be reclaimed upon the payment of all accrued charges, including towing, storage and notice charges, within 14 days of the date of notice, unless the vehicle has been determined to have a value less than \$100 or that the cost of towing and storage charges for impoundment will exceed the value of the vehicle, in which case the vehicle may be reclaimed within 7 days upon the payment of the aforesaid charges; and that the owner or secured party may, upon request, be granted a hearing relating to the determinations made with respect to such vehicle within the period that such vehicle may be reclaimed.

- (6) **DISPOSAL OF ABANDONED VEHICLES.** Any abandoned vehicle impounded by the Village which has not been reclaimed, junked or sold by direct sale to a licensed salvage dealer pursuant to the provisions of this section may be sold by public auction sale or public sale calling for the receipt of sealed bids. Class 1 notice, including the description of the vehicle, the name and address of the Wisconsin titled owner and secured party of record, if known, and the time of sale, shall be published before the sale.
- (7) **REPORT OF SALE OR DISPOSAL.** Within 5 days after the direct sale or disposal of a vehicle as provided for herein, the Chief of Police or his designee shall advise the State Department of Transportation, Division of Motor Vehicles, of such sale or disposal on a form supplied by such Division. A copy of the form shall be given to the purchaser of the vehicle.
- (8) **OWNER RESPONSIBLE FOR IMPOUNDMENT AND DISPOSAL COSTS.**
- (a) The owner of any abandoned vehicle, except a stolen vehicle, is responsible for that abandonment and all costs of impounding and disposing of the vehicle. Costs not covered from the sale of the vehicle may be recovered in a civil action by the Village against the owner.
- (b) Payment of removal and impoundment costs is not required when the vehicle has been impounded for purposes of law enforcement investigation.
- (9) **CONFLICT WITH OTHER CODE PROVISIONS.** In the event of any conflict between this section and any other provisions of this Municipal Code, this section shall control.
- (10) **JUNKED VEHICLES AND APPLIANCES ON PRIVATE PROPERTY.**
- (a) Storage of Automobiles Restricted. No disassembled, inoperable, unlicensed, junked or wrecked motor vehicles, truck bodies, tractors, trailers, farm machinery or appliances shall be stored or allowed to remain in the open upon private property within the Village for a period exceeding 20 days.

- (b) **Definitions. Disassembled, Inoperable, Junked or Wrecked Motor Vehicles, Truck Bodies, Tractors, Trailers.** Motor vehicles, truck bodies, tractors, farm machinery or trailers in such state of physical or mechanical ruin as to be incapable of propulsion, being operated upon the public streets or highways or which is otherwise not in safe or legal condition for operation on public streets or highways due to missing or inoperative parts, flat or removed tires, expired or missing license plates or other defects.

Inoperable Appliance. Any stove, washer, refrigerator or freezer which is no longer operable in the sense for which it was manufactured [shall be considered a public nuisance].

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

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

- (c) **Exceptions.** This subsection shall not apply to any motor vehicle or motor vehicle accessories stored within an enclosed building or on the premises of a business enterprise operated in a lawful place and manner in compliance with zoning regulations when necessary to the operation of such business enterprise, in a storage place or depository maintained in a lawful place and manner or seasonal use vehicles, such as snowmobiles, motorcycles, motor scooters and on motorized campers, provided such vehicles are stored in rear yard areas.

- (d) **Enforcement.**

1. Whenever the Police Department shall find any vehicles or appliances as described herein placed or stored in the open upon private property within the Village, they shall notify the owner of such property on which such vehicle or appliance is stored of the violation of this subsection. If such vehicle or appliance is not removed within 5 days, the Police Department shall cause to be issued a citation to the property owner or tenant of the property upon which such vehicle or appliance is stored.
2. If such vehicle or appliance is not removed within 20 days after issuance of a citation, the Chief of Police shall cause the vehicle or appliance to be removed and impounded and it shall thereafter be disposed of as prescribed in subs. (5) and (8) by the Chief of Police or his authorized representative. Any cost incurred in the removal and sale of such vehicle or appliance shall be recovered from the owner. However, if the owner of the vehicle or appliance cannot readily be found, the cost of such removal shall be charged to the property from which it is removed, which charges shall be entered as a special charge on the tax roll.

- (e) Penalty. Any person who shall interfere with the enforcement of any of the provisions of this subsection and shall be found guilty thereof shall be subject to a penalty as provided in S 25.04 of this Municipal Code. Each motor vehicle or appliance involved shall constitute a separate offense.

10.10 ABATEMENT OF PUBLIC NUISANCES.

- (1) Enforcement. The Chief of Police, Fire Chief, Building Inspector and Health Officer shall enforce those provisions of this chapter that come within the jurisdiction of their 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 has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.
- (2) Summary Abatement. If the inspecting officer determines 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 President 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. If the inspecting officer determines that a public nuisance exists on private premises but that such nuisance does not 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 the same within 10 days. If such nuisance is not removed within 10 days, the proper officer shall cause the nuisance to be removed as provided in sub. (2).
- (4) Other Methods Not Excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Village or its officials in accordance with the laws of the State.
- (5) Court Order. Except when necessary under sub. (2), an officer hereunder shall not use force to obtain access to private property to abate a public nuisance, but shall request permissions to enter upon private property if such premises are occupied and, if such permissions is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.

10.11 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 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.

10.12 PENALTY. Any person who shall violate any provisions of this chapter, or any regulation, rule or order made hereunder, or permit or cause a public nuisance shall be subject to a penalty as provided in S 25.04 of this Municipal Code.