

## **CHAPTER 10**

### **PUBLIC NUISANCE**

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### **10.01 PUBLIC NUISANCE PROHIBITED**

No person shall create, cause, maintain or permit any public nuisance to exist on land which he owns, occupies or controls within the City.

### **10.02 DEFINITIONS AND CRITERIA.**

- (1) **DEFINITION OF PUBLIC NUISANCE.** A public nuisance is thing, activity, occupation, condition or use of property, whether or not otherwise lawful, which because of its proximity to dwellings, buildings, occupancy or property of others of the public, or public places:
  - (a) Substantially interferes with the health, safety, comfortable enjoyment of life or use of property, or other interests of others of the public who come into contact with it; or
  - (b) Substantially interferes with the public interest. 104 Wis. 2d 506, 311 N.W.2d 650 (1981)
  
- (2) **CRITERIA FOR DETERMINING WHETHER A NUISANCE IS PUBLIC.** In determining whether a public nuisance exists hereunder, consideration shall be given to:
  - (a) The number of persons affected;
  - (b) The location of the property of the persons affected;
  - (c) The degree or character of the injury inflicted or the right impinged upon;
  - (d) The reasonableness of the use of the property;
  - (e) The nature of any business being maintained;
  - (f) The nearness of dwellings to the property; and
  - (g) The nature of the surrounding neighborhood or community.

### **10.03 NUISANCES INTERFERING WITH THE PUBLIC INTEREST.**

Pursuant to the police powers vested in the Common Council, the following things, activities, conditions, occupations and uses of property are declared to be public nuisances, and may be suppressed, abated or enjoined as hereafter provided. The declaration of a specific public nuisance hereunder shall not be construed to exclude any public nuisance not so enumerated.

(1) NUISANCES AFFECTING PUBLIC HEALTH AND SAFETY.

- (a) All decayed, adulterated or unwholesome food or drink sold or offered for sale to the public;
- (b) Carcasses of dead animals, including fish and fowl, not intended for human consumption or food which are not buried or disposed of within 24 hours;
- (c) Any accumulation of animal, vegetable or mineral matter, or any stagnant water, in which flies, mosquitoes, mice, rats or other vermin may breed;
- (d) The pollution of any water table, well, cistern, stream or other body of water by sewage, creamery or other industrial waste or substances;
- (e) Permitting the escape of smoke, soot or foul, offensive, noisome, noxious or disagreeable odors which annoy, discomfort, inconvenience or injure the health of any person of ordinary sensibility;
- (f) The open storage upon the surface of any land of junk, garbage, hewn or fallen trees, waste building materials from land development or building construction or repair, litter, rubbish and refuse, inoperable motor vehicles or motor vehicle parts, cloth, rags, clothing, paper, bottles, rubber, metals, alloys, or any other article or thing which from its worn or broken condition renders it practically useless for the purpose for which it was made.

(2) NUISANCES AFFECTING PUBLIC SAFETY, COMFORT, AND CONVENIENCE.

- (a) Unauthorized traffic signs or any signs placed on a pole, post or other structure or device bearing any electrical wires or cables of a public utility, or authorized traffic sign.
- (b) Any tree, plant, sign, awning or other structure or thing so situated or constructed as to obstruct any public street, sidewalk, alley or public right-of-way; or which interferes with the clear view of traffic by any person lawfully using street, sidewalk, alley or other public right-of-way; or which endangers the public safety.
- (c) The keeping of any animal which by frequently barking, howling or making of other noises annoys or disturbs any neighborhood or significant number of persons.
- (d) Permitting any dog, cat or other pet or animal to wander at large.

- (e) Any unauthorized use of property on or abutting a public street, sidewalk, alley or public right-of-way, or other public property which involves a large number of persons and which obstructs, hinders, slows or otherwise interferes with traffic and the free use of such street, sidewalk, alley, public right-of-way or other public property.
- (f) The repeated violation of any ordinance of the City or of any statute of the state. 60 Wis. 2d 631 (1973).
- (g) Any building erected, repaired or altered in violation of any ordinance of the City.
- (h) Any building or other structure so old, dilapidated or out of repair as to be dangerous or unsafe or unsanitary or unfit for human habitation, or occupancy or use.
- (i) Any tree or limb of any tree which is dead, dying, damaged or otherwise injured so as to present a danger to the safety of any person in its proximity.
- (j) Any abandoned refrigerator or icebox or other appliance from which the doors or other covers have not been removed or equipped with a device for opening from the inside.

#### **10.04 MAINTENANCE AND REPAIR OF PROPERTY.**

No person shall allow or permit exterior areas of property which they own or occupy to be or remain in a state of blight, disrepair or poor maintenance. Violations of this Section are hereby declared to be public nuisances. Compliance with this Section shall include, but is not limited to the following:

- (1) Fences, other minor structures, and outbuildings shall be properly maintained in a safe, sanitary, substantial and sturdy condition.
- (2) All exterior surfaces shall be treated with paint or other preservative and shall be maintained so as to prevent chipping, peeling, cracking or other deterioration of the exterior surfaces so as to present an attractive appearance and to maintain safety.
- (3) Every foundation, exterior wall, floor, ceiling, window, door and roof shall be reasonably weather tight, watertight and rodent proof and shall be kept in a state of proper repair and maintenance.

## **10.05 NOXIOUS WEEDS A PUBLIC NUISANCE.**

- (1) No person shall permit the growth of Canada thistle, leafy spurge, field bindweed, or any rank growth of other weeds or grasses, (that is, more than five inches in length), or any unreasonable growth of brush, on any property in the City that is owned, occupied or controlled by that person.
- (2) Duty of owner or occupant. The owner or occupant of any lands within the City shall destroy or control by cutting, killing, application of chemicals or cropping or other means all noxious weeds on such lands.
- (3) Public notice to destroy noxious weeds. The Mayor shall annually on or before May 15 cause to be published a Class 2 notice under Chapter 985, Stats., that every person is required by law to destroy all noxious weeds on lands in the City which the person owns, occupies or controls.
- (4) Weed commissioner; duties; abatement or nuisance; charges collected as tax; special procedure for railroad and other lands.
  - (a) The Mayor shall appoint one or more weed commissioners before May 15 of each year. The compensation for the commissioners shall be established by resolution of the Common Council at the time the Mayor announces the appointment to the Council. The weed commissioners shall after May 15, and without any notice other than the public notice prescribed by sub. (3) destroy or cause to be destroyed all noxious weeds in the City. The commissioners shall keep an accounting for each day devoted to destroying noxious weeds, specifying by special item the amounts chargeable to each piece of land and reasonably describing the same.
  - (b) After submitting the accounting to the City Treasurer and being paid therefore, the weed commissioners shall submit the accounting to the Clerk who shall enter the amount chargeable to each tract of land in the next tax roll under the column "For Destruction of Weeds", as a tax upon the lands which tax shall be collected as other taxes are.
  - (c) In the case of railroad lands or other lands not taxed in the usual way, the amount chargeable against the same shall be certified by the City Clerk to the state treasurer pursuant to s. 666.98, Stats., for collection.

## **10.06 JUNKED AUTOMOBILES, APPLIANCES, ETC.**

- (1) DEFINITIONS.
  - (a) Disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors or trailers. Motor vehicles, truck bodies, tractors or trailers in such state of physical or mechanical ruin as to be incapable of propulsion to 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 vehicle. Motor vehicle means a vehicle as defined by s. 340.41(35) and in addition includes a snowmobile.
  - (d) Inoperable appliance. Any stove, washer, dryer, refrigerator, air conditioner, or other common household appliance which is no longer operable for the purpose for which it was manufactured.
- (2) STORAGE OF MOTOR VEHICLES AND APPLIANCES DECLARED A NUISANCE. The storage of disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors or trailers, or unlicensed motor vehicles, truck bodies, tractors or trailers, or the parts thereof, or inoperable appliances, is declared to be a public nuisance. No such items shall be stored or allowed to remain in the open upon public or private property within the City unless a permit for such storage has been issued by the Common Council under Chapter 12 of this Code.
- (3) REMOVAL FROM PUBLIC PROPERTY. Whenever any policeman, zoning administrator, or health officer shall find any vehicle or appliance as defined herein placed or stored in the open upon public property within the City, he shall cause such vehicle or appliance to be removed either by the City street department or by a junk or salvage yard operator, and such items shall be stored in a junked or salvage yard for a period of 30 days. The office ordering removal of such property shall make a reasonable effort to identify the owner, and if the owner's identity and address are ascertained, the officer shall send him a notice by certified mail, return receipt requested, that such property shall be forfeited if not reclaimed by the owner within 30 days. An owner reclaiming such property shall pay the reasonable cost of storage of the property. If property is taken and stored under this section and not reclaimed within 30 days, it may be disposed of by the City or its agents and the proceeds from such disposition shall be applied to the cost of removing and storage of the property.

- (4) **REMOVAL FROM PRIVATE PROPERTY.** Whenever any policeman, zoning inspector, the building inspector, or the health officer shall find any vehicles or appliances as defined in sub.(1), placed or stored in the open upon private property within the City, he shall proceed under Section 10.06(3) of this Code.

## **10.07 ENFORCEMENT.**

- (1) **RESPONSIBLE OFFICIALS.** Any police officer, the building inspector, health officer, zoning administrator, city engineer, director of public works and the Mayor may enforce the provisions of this Chapter. Any of said officials may make inspections to determine whether a violation of this Chapter exists. Whenever any officer has made or caused an inspection or investigation and has determined that a public nuisance exists, said official shall proceed as hereafter provided.
- (2) **SUMMARY ABATEMENT.** If the inspecting officer determines that a public nuisance exists and that it threatens the health, safety or peace of the public, or any member of the public, the Mayor may cause the nuisance to be immediately abated. The costs of abating the nuisance shall be collected from the owner of the property where the nuisance arose as a special charge for current services pursuant to s. 66.0627, Stats.
- (3) **NON-EMERGENCY DIRECTION TO ABATE.**
  - (a) **Notice and Order to Abate.** If the inspecting officer determines that a public nuisance exists on private premises, but that it does not pose an immediate danger to public health, safety or peace, the officer shall notify the owner or occupant of the property, either personally, by regular first class mail, or other reasonable means, of the existence of the nuisance and direct that person to abate the nuisance. Only one notice to abate need be sent annually. The notice shall order abatement within three (3) days and shall inform the recipient that if such a nuisance recurs in a calendar year after the owner or occupant has previously received an abatement order, the City will summarily cause the nuisance to be abated without notice. This applies for the following public nuisances:
    - (1) **Notice: Health and Safety; Imminent Threat.** Nuisances described in Sections 10.03(1)(a)-(f), 10.03(2)(a)-(f), or 10.03(2)(i)-(j).
    - (2) **Notice: Health and Safety; Moderate Threat.** Nuisances described in Section 10.03(2)(h), or Section 10.06.
    - (3) **Notice: Repairs and Maintenance.** Nuisances described in Section 10.04.

- (4) Notice: Noxious Weeds. Nuisances described in Section 10.05.
  - (b) Contents of Notice and Order to Abate. The notice shall be sent to the occupant of the property and, if the occupant is not the owner, to the person listed on the current tax roll as the owner. The notice shall inform the recipient that if the nuisance is not abated within the time prescribed, the City will abate the nuisance and the costs of abatement shall be charged to the owner of the property and collected as a special charge for current services.
- (4) **FORFEITURE.** If any proceedings under this Section or Chapter 823, Stats., in which the City prevails, the person causing or maintaining the nuisance shall pay, in addition to any other costs or charges imposed against him or her or his or her property, a forfeiture as described in Chapter 25 of this Code.