

COVER PAGE FOR NUISANCE ORDINANCE

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CHAPTER 3

PUBLIC NUISANCES

3.01 PUBLIC NUISANCES PROHIBITED.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town.

3.02 PUBLIC NUISANCES DEFINED.

A public nuisance is a thing, act, occupation, condition or use of property which continues 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 any street, alley, highway, navigable body of water, or other public way.

3.03 PUBLIC NUISANCES AFFECTING HEALTH.

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances; but such enumeration shall not be construed to exclude other health nuisances coming within the definition of Ord. 3.02.

- A. **ADULTERATED FOOD.** All decayed, adulterated or unwholesome food or drink sold or offered for sale to the public.
- B. **CARCASSES, UNBURIED.** Carcasses of animals, birds or fowl not intended for human consumption or food which is not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- C. **INSECTS OR VERMIN, BREEDING PLACES FOR.** 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.
- D. **WATER, STAGNANT.** All stagnant water in which flies, or other insects can multiply.
- E. **PRIVY VAULTS AND GARBAGE CANS.** Privy vaults and garbage cans which are not fly-tight.

F. POLLUTION, WATER. 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.

G. ODORS, NOXIOUS. Any use of property, substances or things within the Town emitting or causing any foul, offensive, noisome, noxious or disagreeable odors, gases, effuvia 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 town.

H. POLLUTION, STREET. 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 Town.

I. POLLUTION, AIR. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Town or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or threaten or cause substantial damage to property in the Town.

J. ANIMALS, LOOSE. Any animal running at large in the Town. Any animal shall be deemed to be at large when it is off the premises owned or leased by its owner or custodian unless crated, penned, or under the control of a person able to control the animal by means of a leash of sufficient strength to control the action of the animal or such other personal attention as will reasonably control the conduct and actions of the animal.

K. ABANDONED WELLS. All abandoned wells not securely covered or secured for public use.

L. OBSTRUCTION OF WATERCOURSE, ETC. Any obstruction in or across any watercourse, drainage ditch or swale.

M. DEPOSIT OF GARBAGE, REFUSE, ETC. The deposit of garbage, refuse or any offensive substance on any public or private property except as may be permitted by ordinance. Garbage cannot be placed out for pickup prior to 24 hours before such scheduled pickup.

3.04 PUBLIC NUISANCES OFFENDING MORALS AND DECENCY.

The following acts, omissions, places, conditions and things are 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 Ord. 3.02:

A. 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. Any building in which gambling, prostitution, or liquor and fermented malt beverage violations occur or which is used for the purpose of unlawfully selling, serving, storing, keeping or giving away controlled substances as defined in Wis. Stats. Ch. 961 (Uniform Controlled Substance Act). No person shall knowingly keep, control or operate a disorderly house, or knowingly be an inmate of, frequent, patronize, or be found within any disorderly house. In addition to the forfeiture provisions of this chapter, the

operation of any disorderly house shall be deemed to be a public nuisance and may be enjoined by the Town.

B. GAMBLING DEVICES. All gambling devices and slot machines.

C. UNLICENSED SALE OF LIQUOR AND BEER. All places where intoxicating liquor or fermented malt beverages are sold, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the Town.

D. CONTINUOUS VIOLATION OF TOWN ORDINANCES. Any place or premises within the Town where Town Ordinances or State Laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

E. ILLEGAL DRINKING. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of State Laws.

3.05 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 or safety coming within the definition of Ord. 3.02:

A. 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.

B. ILLEGAL BUILDINGS. All buildings erected, repaired or altered in violation of Town Ordinances relating to materials and manner of construction of buildings and structures within the Town.

C. 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, 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.

D. 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.

E. LOW-HANGING TREE LIMBS. All limbs of trees which project over and less than 14 feet above any public sidewalk or street.

F. DANGEROUS TREES. All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.

G. FIREWORKS. All use or display of fireworks except as provided by State Laws and Town Ordinances.

H. **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.

I. **LOW-HANGING WIRES AND CABLES.** All wires and cables over streets, alleys, sidewalks or crosswalks, and all excavations in or under the same, except as permitted by the Ordinances of the Town, 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.

J. **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 Town.

K. **OBSTRUCTIONS OF STREETS; EXCAVATIONS.** All obstructions of streets, alleys, sidewalks or crosswalks, and all excavations in or under the same, except as permitted by the Ordinances of the Town, 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.

L. **UNLAWFUL ASSEMBLIES.** Any authorized or prohibited 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.

M. **NOISES OR VIBRATIONS.** All loud, discordant, and unnecessary noises or vibration of any kind.

N. **OPEN AND UNGUARDED PITS, WELLS, ETC.** All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley, or sidewalk.

O. **ABANDONED REFRIGERATORS OR ICE BOXES.** All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which cannot be opened by pushing from inside by a small child.

P. **REPEATED OR CONTINUOUS VIOLATIONS.** Repeated or continuous violations of the ordinances of the Town or State Laws relating to the storage of flammable liquids.

Q. **STRUCTURE OR MATERIAL WHICH CONSTITUTES A FIRE HAZARD.** Any structure, material or condition which constitutes a fire hazard or will impair the extinguishing of any fire.

R. **ICE AND SNOW REMOVAL.** All ice not removed from the public sidewalks and all snow not removed from public sidewalks within 24 hours after it has ceased to fall thereon.

S. **ILLEGAL DEPOSIT OF SNOW OR OTHER SUBSTANCES.** The placing, depositing, plowing onto, or otherwise putting snow or other substance onto the traveled portion of a public or private roadway or other property which endangers the safety of persons traveling such roadway or property. Town or county employees while engaging in snow removal operations or acting in the performance of their position are exempt from this section.

T. **ANY NUISANCE.** Any nuisance so defined by the Wisconsin Statutes.

3.07 SMOKE.

A. **DENSE SMOKE.** The emission of dense smoke from the smokestack of any engine or from the smokestack or chimney of any building within the Town is hereby declared to be a public nuisance and is prohibited.

B. **STATIONARY ENGINEER.** The owner, lessee, or occupant of any building, or the fireman, engineer, or any other person having charge or control of any furnace or stationary engine who shall cause, permit or allow dense smoke to issue or be emitted from the smokestack or chimney connected with any such furnace or stationary engine within the Town shall be guilty of creating a public nuisance and of violating the provisions of this section.

C. **ALL SOOT PROHIBITED.** The emission of soot, cinders, or coal dust from any chimney, stack, furnace or from any building within the Town is hereby declared to be a public nuisance and is prohibited.

3.08 DISEASED TREES.

A. It is determined that the health and general welfare of the Town requires preventative control of the disposal and tree care of infected trees within the Town.

B. All dead or freshly cut elm wood shall be burned or treated with an approved spray and oil base as approved by the Town Forester, and no person shall keep any dead or freshly cut elm on any premises in the Town unless so treated.

C. The Town Board may designate a person as Town Forester and either the Town Board, any member thereof or the Town Forester may order the property owner to remove and destroy any elm tree determined to be infected with Dutch Elm Disease; or any tree of any species infested with any disease. Notice shall be given by mailing to the last known address of the property owner by registered mail or by delivery of notice and service thereof by the police department on such owner or agent of such owner.

D. The Town Forester, Police Department or any member of the Town Board is hereby empowered to enter upon private property within the Town for the purpose of inspecting all trees thereon to determine whether any of such trees are infected or diseased or in need of preventative measures; and is further empowered to inspect such private premises to determine the presence of any infected logs, firewood or stumps or the presence of any dead elm trees, elm logs, elm firewood or elm stumps.

E. The Town board, any member thereof, Police Department or the Town Forester may order any property owner to spray the trees and the ground around such trees with a substance approved by the Town Board or Town Forester to eliminate or control Dutch Elm Disease and other tree infestation. Notice shall be given in the same manner as provided in sub. (C) above.

F. When any property owner is directed to remove a tree or spray a tree or area, he shall advise the Town Board of his compliance within 10 days after receipt of notice.

G. No person shall engage in the sale of spraying service for elm trees for the prevention of Dutch Elm Disease or other tree disease without first registering with the Town Board and furnishing a sample of the spraying substance for analyzation and thereupon receive a permit if they meet with the approval of the Board. It shall be a condition of the permit that the Police Department, or person designated by the Town Board may demand a sample of the spray material from any person holding a permit from the Board at any time and refusal to supply a sample of the spray material shall automatically suspend the permit.

3.09 STORAGE OF JUNK.

A. The unsheltered accumulation or storage of old, unused, stripped and junked automobiles not in good and safe operating condition, any other vehicles, machinery, implements, equipment, any parts hereof, and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured within the Town is declared to be a nuisance and dangerous to the public health, safety and well-being.

B. The owner, tenant, lessee and occupants of any lot upon which such accumulation or storage is made and the owner and lessee of the items involved in such storage, all referred to collectively as "owners", shall jointly and severally abate the nuisance by promptly moving such items into completely enclosed buildings authorized to be used for such storage purposes, if the same can be found within the Town, or otherwise by moving the items to a location outside the Town.

C. Whenever the owners fail to abate the nuisance, the Town shall move such items to a location of its selection, and the expense therefore shall be billed to the owners, jointly and severally, which bill shall be coverable through tax roll. When such items have been removed and placed in storage by the Town, they shall be sold by the Town after the lapse of such time as is provided.

If the proceeds of such sale are insufficient to pay the costs of abatement, the owners shall be jointly and severally liable to the Town for the balance of the costs to be recoverable in a suit of law. If the proceeds are in excess of costs, the balance shall be paid to the owners or deposited with the Town for their use.

3.10 NOISE STANDARDS.

A. PROHBITIONS. Nose that is unreasonably loud, disturbing, and unecessary is prohibited. Such noice includes, but is not limited to the following:

1. Noise that is a threat to public health, safety, and general welfare because of its intensity, character, or duration.

2. The creation of any excessive noise on any street adjacent to any place of worship, school, institution of learning, library, hospital or sanitarium, or any court while the same is in session, which unreasonably interferes with the working or activities of such place.

3. Owning, keeping, possessing or harboring any animal or animals which frequently or habitually howl, bark, meow, squawk or make such other noise as is plainly audible across property boundaries or through partitions common to two (2) persons within a building.

B. Exemptions

1. Animal shelters or kennels which were legally in existence as of the date of adoption of this chapter.

2. Agricultural activities. For the purposes of this section, livestock is considered an agricultural use.

3. Automobile races at commercial facilities before 10:00 p.m., except Friday and Saturday evenings, which will be before 11:00 p.m. provided such facility was legally in operation as of the date of this provision.

4. Temporary construction activities between the hours of 6:00 a.m. and 10:00 p.m. on Mondays through Saturdays.

5. Property maintenance and repair, including the use of power equipment including but not limited to lawn mowers, weed trimmers, leaf blowers and chain saws between the hours of 7:00 a.m. and 10:00 p.m.

6. These are general standards that may be superseded, as appropriate, in the issuance of a special permit or special exception.

C. SOUND AMPLIFIERS

1. The use of sound amplifiers outside buildings within the Town is prohibited without a permit from the Town. A sound amplifier shall not be operated after 10:00 p.m. or before 7:00 a.m. or in the vicinity of churches while services are being conducted, or near schools that are in session. The Town may order a reduction in the volume of an amplifier on complaint being made by a citizen or when such loudspeaker is a nuisance because of volume, the method in which it is being used, at the location in which it is being operated.

2. Between the hours of 10:00 p.m. and 7:00 a.m., no person may operate a radio, juke box, or other electric sound amplification device emitting sound from any business premises within the Town that is audible on residentially-zoned property under normal conditions from a distance of 75 feet or more beyond the lot line of any business premises described which emits a sound, unless the electric sound amplification device is being used to request assistance or warn against unsafe conditions.

3.11 LOT LINE NOISE REGULATION.

A. This section provides for noise limitations for emitting and receiving zones located in various zoning districts as established in the Town. No person shall operate or cause to be operated on private or public property any source of sound in such a manner as to create a sound level which exceeds any of the limits set for the Zone categories in Table I.

TABLE I

Maximum Permissible Sound Pressure

(Levels in Decibels re .0002 Microbars)

7:00 a.m. to 10:00 p.m.

Octave Band Center Residential Commercial Industrial Commercial

Frequency Into Residential Commercial

31.5 72 79 79 72 72

63 71 78 78 71 71

125 65 72 73 66 65

250 57 64 67 60 57

500 51 58 61 54 51

1000 47 52 55 49 45

2000 39 46 50 44 39

4000 34 41 46 40 34

8000 32 39 43 37 32

A-scale levels 55 dB(A) 63 dB(A) 64 dB(A) 58 dB(A) 55dB(A) (for monitoring purposes)

B. DECIBEL LEVEL CORRECTIONS.

1. The levels cited above are daytime levels. Daytime shall refer to the hours between sunrise and sunset on any given day.

2. When noise is present at night time, subtract (-5dB) from the levels in the table above.

C. **DEFINITIONS OF ZONE CATEGORIES.** The following zones are included in the zone categories. These are defined:

1. **Residential:** Rural Residential, Single Family Residence, Agriculture, and Exclusive Agricultural.
2. **Commercial:** Community Business, Service & Entertainment, and Highway Business.
3. **Industrial:** Limited Industrial and Industrial Park.

Regulation will be according to the underlying zones. Conservancy zones that are not publicly owned shall be regulated according to the adjacent zone. If the neighboring zones are different, they shall be extended to the center of the conservancy for the purposes of this section.

D. **MEASUREMENTS.** The measurement shall be made at or beyond the property line of the property on which said noise is generated or at or within the property line of the property on which said noise is perceived, as inappropriate. Measurement shall be done at a minimum height of 4 feet above the ground.

The measurement of sound shall be made either with a sound level meter that meets or exceeds the ANSI requirements of the American Standard Specification for Sound Level Meters, Type I or Type II (ANSI #1.4 -1971) or with an Octave Band Analyzer that meets or exceeds the requirements of ANSI (#1.6 -1960) or any subsequent nationally adopted standards superseding the above standards. In both cases, the instruments should be maintained in calibration and good working order.

When a sound level meter is used, it shall be set to the A-weighting scale and in the FAST response mode. A windscreen shall be mounted on the microphone and the noise limitations shall be the A-scale levels set forth in Table I.

An octave band analyzer may be employed when there is a concentration of sound energy within a limited number of bands, but its use shall not be restricted to such situations. When an octave band analyzer is used, a standard octave band analyzer shall be conducted that spans the frequency range set forth in Table I.

E. **EXCEPTIONS.** The provisions of this article shall not apply to:

1. Activities covered by the variance and exemption section of this section.
2. The activities covered under the motor vehicle section of this section.
3. Non-stationary farming equipment.

F. ANALYSIS. Where an octave band analysis is not done, an A-weighted sound level measurement of the noise shall be taken. When this method is used, the noise limitations shall be the A-scale levels included in the Table.

3.12 AIR CONTAMINANTS.

No operation or use shall cause, create, or allow air contaminants at the emission point or within the bounds at the property which exceeds Federal or State air pollution regulations.

3.13 VIBRATIONS.

The use of any property or portion thereof which is zoned in any Industrial District Classification causing earth-shaking vibrations such as are created by uses including, but not limited to, drop forges and hydraulic surges, shall be controlled in such manner as to prevent transmission beyond the lot line of earth-shaking vibrations perceptible without the aid of instruments.

3.14 ABATEMENT OF PUBLIC NUISANCES.

A. ENFORCEMENT. The Police Department, Zoning Administrator, 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 actions 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 or herself that a nuisance does in fact exist. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Town Clerk.

B. SUMMARY ABATEMENT. If the inspecting officer determines that a public nuisance exists within the Town and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Town may direct the proper officer to cause the same to be abated or to remove such nuisance within 24 hours and shall state that unless such nuisance is so abated, the Town will 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.

C. ABATEMENT BY TOWN. If the nuisance is not abated within the time provided, or if the owner, occupant, or person causing the nuisance cannot be found, the Town Designee shall cause the abatement or removal of such nuisance.

The charge for the abatement or removal shall be \$100 per hour with a minimum charge of one hour per parcel and its costs 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 §66.0517, Wis. Stats.

D. 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/she 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. (B).

E. OTHER METHODS NOT EXCLUDED. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Town or its officials in accordance with the laws of the State.

F. COURT ORDER. Except when necessary under sub. (B), an officer hereunder shall not 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.

3.15 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 Town 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 costs shall be assessed against the real estate as a special charge.

3.16 PENALTY.

Except as otherwise provided herein, any person who shall violate any provision of this Chapter, or any regulation, rule or order made hereunder, or permit or cause a public nuisance, shall be subject to a forfeiture of not less than \$10 nor more than \$500 for each offense. In addition, the person shall be responsible for the costs of prosecution and in default of payment of such forfeiture and costs of prosecution, he/she may be imprisoned in the County Jail until said costs and fine are paid, but not to exceed ninety (90) days for each violation. Each day that the violation continues to exist shall constitute a separate offense.

3.17 ENFORCEMENT.

The Town Forester, Police Department, or any member of the Town Board may enforce Section 3.08. Any other provisions of this Chapter may be enforced by any Town Board member, Town Administrator, or Police Department. The Building Inspector, Zoning Administrator, and Health Officer may enforce any provisions of this Chapter relating to his or her position.

3.18 NOXIOUS WEEDS PROHIBITED

Pursuant to Wis. Stats. §66.0407, it shall be the duty of every owner, occupant, agent or person in charge of any lot or parcel of land within the Residential Sewered (RS), Public Lands (PL), all Business (B, NB and PCD), Highway Business (HB), I-1 & I-2 (Industrial) Zoning

Classifications of the Town to destroy noxious weeds growing upon their premises or on the area adjacent to the sidewalk or streets upon which the premises abut all of the following: Canada thistle, leafy spurge, ragweed, English charlock (wild mustard), garlic mustard, burdock, poison ivy, oxalis, field bindweed (commonly known as creeping Jenny), quack or quitch grass, field dodder, Indian mustard, sow thistle, purple loosestrife, and other noxious weeds growing upon their premises or on the area adjacent to the sidewalk or streets upon which such premises abut within:

A. The destruction of said thistles or weeds shall be made at all times before the same go to seed or at such time as the weed commissioner shall order.

B. Neglect or failure on the part of the owner or occupant to obey the provisions of this section or to comply with the orders of the weed commissioner within the time stated on any notice he may serve, shall be deemed a violation of this section and said weed commissioner shall proceed to cut down or otherwise destroy such thistles, trees or other noxious weeds.

C. Annually, the Town shall appoint a weed commissioner who shall keep an account of such expense and make a report of the same to the clerk who shall enter the amount therein charged to each lot or parcel of land in the next subsequent tax roll as a special tax against said lot or parcel of land and the same shall be collected in all respects like other Town taxes upon real estate.

D. Lands exempt from these regulations include Wetlands as designated by Brown County Mapping or other official wetland delineation and Environmentally Sensitive Areas (ESA).