

**CHAPTER 10 PUBLIC NUISANCES**

10.01	Public Nuisances Prohibited
10.02	Public Nuisances Defined
10.03	Public Nuisances Affecting Health
10.04	Public Nuisances Offending Morals and Decency
10.05	Public Nuisances Affecting Peace and Safety
10.06	Storage of Junked Vehicles, Etc.
10.065	Restricted Parking on Residential Properties
10.07	Abatement of Public Nuisances
10.08	Cost of Abatement
10.15	Penalty

## 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 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:

- (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 definition of Sec.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 VERMIN, ETC**. 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 may 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 fly-tight.
- (6) **NOXIOUS WEEDS**. (Am. Ord. #197)

PUBLIC NUISANCES 10.03(6)(a)

- (a) All noxious weeds and other rank growth of vegetation. All weeds and grass shall be kept cut to a heights of not to exceed 6". The City 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 Sec. 66.60(16), Wis. Stats.
  - (b) Upon notice of a violation of Paragraph (a) above, the Weed Commissioner for the City, appointed pursuant to Sec. 66.0517 Wis Stats., shall investigate, and if any person neglects or refuses to destroy noxious weeds within the time allowed by written notification pursuant to Sec. 66.0407, Wis. Stats., the Weed Commissioner may destroy or cause all such weeds to be destroyed in the manner deemed to be the most economical method. The property owner will be allowed seven days from the date of notification to remove weeds upon the first notice of the year. If subsequent notices are sent within the calendar year, the property owner will be allowed 48 hours to comply. (Am. #759, 6/2008)
  - (c) In addition, the owner of property in violation of Paragraph (a) above who shall fail to comply with this ordinance after verbal or written warning from the Department of Community Development or a Police Officer shall be subject to penalties, fines and forfeitures as set forth in Section 25.04 of this Code of Ordinances. (Amended #635, 2003) (Amended #785, 5/19/2009)
- (7) 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.
- (8) 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 stenches 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.
- (9) 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.

## PUBLIC NUISANCES 10.04

- (10) AIR POLLUTION. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the City 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 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 exclude other nuisances offending public morals and decency within the definition of Sec.10.02:

- (1) DISORDERLY HOUSES. All disorderly houses, bawdy houses of ill-fame, gambling houses and buildings or structures kept or resorted to for 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 the ordinances of the City.
- (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. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of State laws.

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:

- (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.

PUBLIC NUISANCES 10.05(2)

- (2) **ILLEGAL BUILDINGS.** All buildings erected, repaired or altered in violation of the provisions of City ordinances 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 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.
- (5) **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 City ordinances.
- (8) **DILAPIDATED BUILDINGS.** All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human use.
- (9) **WIRES AND CABLES OVER STREETS.** 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.** (Am. #207) 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 annoy any person or the public within the City.
- (11) **OBSTRUCTIONS OF STREET; EXCAVATIONS.** All obstructions of streets, alleys, sidewalks or crosswalks, and all excavations in or under the same, except as permitted by this Municipal Code, or which, although made

PUBLIC NUISANCES 10.05(11)

in accordance with such Municipal 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.

(12) 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.

(13) ENGINE BRAKING SYSTEMS. (Cr. #616, 2003)

(a) Use of Engine Braking systems which utilize engine exhaust to reduce large vehicle speed and exceed noise parameters established in Chapter TRANS 405, Wisconsin Administrative Code, commonly referred to as compression or "Jake" brakes.

(b) This ordinance shall not apply in cases of emergency or under the following conditions:

- i. Downgrade of 5% and more than 3,000 feet long
  - ii. Downgrade of 6% and more than 2,000 feet long
  - iii. Downgrade of 7% and more than 1,000 feet long
  - iv. Downgrade of 8% and more than 750 feet long
  - v. Downgrade of 9% and more than 500 feet long
  - vi. Any downgrade steeper than 9%, regardless of length
- 10.05(13)(b)

OUTDOOR WOOD BURNING STOVES. Outdoor wood burning stoves, used primarily to provide a heat source to a building, are hereby declared a public nuisance and prohibited within the City Limits. Any existing outdoor woodburning stoves, as of the adoption of this ordinance, are hereby declared a public nuisances when used between April 1 and October 15. (Cr. #79, 6/20/06) (Rep. & recr. #795, 08/18/09)

(15) OPEN BURNING. (Recreated #860, 12/18/12)

(a) PRIOR APPROVAL.

- 1) Except as provided in par. 2), all persons shall obtain authorization from the fire chief before kindling or maintaining any open burning or authorizing the kindling or maintaining of any open burning within the limits of the City of Sparta.

## PUBLIC NUISANCES

- 2) The following open burning shall be permitted without authorization from the fire chief:
  - i. Outdoor cooking using charcoal or liquid propane as a fuel
  - ii. Training for Fire Departments
  - iii. Campfires or Outdoor Fireplaces (Created #684, 06/21/2005)
- (b) SIZE OF THE PILE. The size of the pile of material to be burned shall not exceed 3 feet by 3 feet high.
- (c) LOCATION. The location of the open burning shall be approved by the fire chief and either:
  - 1) The pile of material being burned shall be at least 15 feet from any structure, wood or lumber pile, wooden fence, trees or bushes, and provisions shall be made to prevent the fire from spreading to within 15 feet of such items; or
  - 2) The fire shall be contained in an approved burner located at least 15 feet from any structure, wood or lumber pile, wooden fence, tree or bush.
- (d) MATERIAL FOR BURNING.
  - 1) Fuel for open burning shall consist of dry material only and shall not be ignited with flammable or combustible liquids.
  - 2) Material for open burning may not include rubbish, garbage, trash, leaves or grass clippings, and material made of or coated with rubber, plastic, leather or petroleum based materials and may not contain any flammable or combustible liquids.
- (e) CITY CLERK TO ISSUE PERMITS. Permits required by the ordinance may be obtained from the Office of the Fire Chief with a copy to the fire department. (Created #860,12/18/12)
- (f) SUPERVISION. Open burning shall be constantly attended and supervised by a competent person at least 18 years of age until such fire

PUBLIC NUISANCES is extinguished. This person shall have readily available for use fire extinguishing equipment deemed necessary by the fire chief.

is extinguished. This person shall have readily available for use fire extinguishing equipment deemed necessary by the fire chief.

- (g) TIME TO BURN. Open burning shall be permitted only from 7:00 a.m. to 12:00 a.m. or as permitted by the fire department having jurisdiction.
- (h) OTHER REGULATIONS. Open burnin shall also be subject to the administrative rules of the Department of Natural Resources.
- (i) PROHIBITION. Outdoor burning shall be prohibited when the wind velocity exceeds 9 mph or local circumstances make the fires potentially hazardous. Local circumstances include but are not limited to thermal inversions, ozone alerts, and very dry conditions.
- (j) PENALTY. The penalty for violating the provisions herein contained shall be as provided for in Section 10.15.

10.06 STORAGE OF JUNKED VEHICLES, ETC. (Am. #156) (Rep. & recr. #648, 5-18-2004) (Amended #700, 1-17-2006) (Amended #722, 10-17-2006)

(1) DEFINITIONS.

- (a) "Junked motor vehicle" means any motor vehicle which is partially dismantled or wrecked and which cannot safely or legally be operated.
- (b) "Motor vehicle" means any self-propelled land vehicle which can be used for towing or transporting people or materials, including, but not limited to, automobiles, trucks, buses, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, etc.
- (c) "Motor vehicle accessories" means any part or parts of any motor vehicle.
- (d) "Abandoned motor vehicle" means a motor vehicle which, through disuse and failure to be used, remains in one location for a period of seven (7) days or more, or a motor vehicle which has been reported as stolen to any police department, or a motor vehicle which does not have affixed a current motor vehicle license.

PUBLIC NUISANCES 10.06(1)(e)

- (e) "Discarded or abandoned personal property" means movable property such as, but not limited to, appliances and other or similar household items left unattended and apparently no longer used or usable for the purpose intended and remaining, more or less, in one location for a period of seven (7) days or more.
- (f) "Person" includes any individual, firm, partnership, or corporation.
- (g) "Private property" means any real property not owned by federal, government, state, county, city, school board, or other public subdivisions.
- (h) "Removal" means the physical relocation of a motor vehicle to an authorized location.

(2) STORAGE PROHIBITED.

- (a) No person owning or having custody of any junked motor vehicle, abandoned motor vehicle, motor vehicle accessories, or discarded or abandoned personal property shall store or permit any such vehicle, accessories, or personal property to remain on any private property within the City for a period of more than seven (7) days. No person owning any private property in the City shall store or permit to remain any such junked or abandoned motor vehicle, motor vehicle accessories, or discarded or abandoned property on his property for more than a seven (7) day period. Such storage is declared to be a public nuisance and may be abated or removed and penalties imposed as provided in this Chapter.
- (b) No person, after notification to remove any abandoned motor vehicle, junked motor vehicle, or motor vehicle accessories from any private property has been given pursuant to this Chapter, shall move the same to any other private property upon which such storage is not permitted or onto any public highway or other public property for purposes of storage.

(3) STORAGE, PERMITTED WHEN. This Section shall not apply to any junked motor vehicle or motor vehicle accessories or any abandoned motor vehicle stored within an enclosed building, licensed automobile salvage yards, or

PUBLIC NUISANCES 10.06(3)

auto repair and auto body shops, but this Section shall apply to automobile service stations or tire, battery and accessory sale stores.

- (4) INVESTIGATION OF PREMISES. The Police Department, on routine patrol or upon receipt of a complaint from the Building Inspector of any other person, may investigate a suspected abandoned motor vehicle, junked motor vehicle, or motor vehicle accessories and record the make, model, style, and identification numbers and its situation.
- (5) NOTICE OF REMOVAL. Whenever the Chief of Police, or any member of his Department, shall find or be notified that any abandoned motor vehicle, junked motor vehicle or motor vehicle accessories has been stored or permitted to remain on any private property within the City, other than those permitted instances described in paragraph (3), the Chief of Police shall send by certified mail a notice to the owner of record of such motor vehicle or accessories, if such owner can be ascertained by the exercise of reasonable diligence, and also to the owner of the private property, as shown on the tax assessment records of the City, on which the same is located, to remove the junked motor vehicle, abandoned motor vehicle, or motor vehicle accessories within seven (7) days. Such notice shall also contain the following information:
- (a) Nature of complaint.
  - (b) Description and location of the motor vehicle and/or motor vehicle accessories.
  - (c) Statement that the motor vehicle or motor vehicle accessories shall be removed from the premises not later than seven (7) days from the date of notification.
  - (d) Statement that removal from the location specified in the notification to another location upon which storage is not permitted is prohibited and shall subject the person to additional penalty.
  - (e) Statement that if removal is made within the time limits specified, notification shall be given in writing to the Chief of Police.
  - (f) Statement of the penalties provided for noncompliance with such notice.

- (6) PENALTIES. Each and every violation of the provisions of this Section shall constitute a separate offense, and each and every day any provision of this Section is violated shall constitute a separate offense for which a forfeiture may be imposed.

10.65 RESTRICTED PARKING ON RESIDENTIAL PROPERTIES

(1) Definitions:

- (a) Vehicle: Any land or water vehicle which can be used for towing or transporting people or materials, including but not limited to, automobiles, trucks, buses, campers, boats, trailers and tractors.
- (b) Improved surface: Cement, brick, asphalt, pavers, recycled asphalt, or stone consisting of a coarse and fine aggregate with sufficient binder to produce a stable base for surfacing, free from vegetable matter, shale, and lumps of clay. Gradation shall be No. 2 as per section 304.2.6 of the State of Wisconsin, Department of Transportation Standard Specifications, installed so it does not drain onto neighboring property. It is not a sufficiently improved surface if only the areas under the tires are paved; provided, however, that existing cement strips leading to a parking area are permitted to remain in use.

(2) PARKING RESTRICTIONS:

- (a) No person shall keep, store or park any vehicle on any portion of a front yard or corner lot side yard facing a street of a property designed or used as a residence, except on an area that is an improved surface.
- (b) No owner, tenant, manager, or occupant of property used as a residence shall allow or suffer another person to keep, store or park any vehicle on any portion of a front yard or corner lot side yard facing a street, except on an area that is an improved surface.

(3) This section shall not prohibit:

- (a) An owner, lessee, or occupant of the property from repairing, washing, cleaning, or servicing personal property that is owned, leased, or rented by the owner, lessee, or occupant of the property, or

## PUBLIC NUISANCES 10.07

- (b) Repairing or servicing of a motor vehicle or part thereof within a completely enclosed building in a lawful manner where it is not visible from the street or other public or private property.
- (4) Improved surface limitations:
  - (a) No more than fifty percent of the required front setback for any lot containing a one or two-family dwelling or any lot located in any R-1, R-2, or R-3 or R-6 residential district with a frontage width of forty feet or greater shall contain an improved surface.
  - (b) For lots which have a frontage width less than forty feet, improving the surface in the front setback area is limited to ten feet in width or fifty percent of the width of the lot at any given point, whichever is greater.
  - (c) Notwithstanding subsection 1, for lots which have a frontage width less than forty feet, an improved surface area directly contiguous with, and providing primary access to, two side by side required parking spaces, may exceed the fifty percent limitation as long as it is no more than twenty-five feet long and eighteen feet wide.

### 10.07 ABATEMENT OF PUBLIC NUISANCES.

- (1) ENFORCEMENT. The Chief of Police, the Chief of the Fire Department, the Building Inspector and Code Compliance 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 shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself/herself that a nuisance does in fact exist. (Am. #488, 1997)
- (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 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 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

## PUBLIC NUISANCES 10.07(3)

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 said nuisance is not removed by said person, such nuisances shall 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 City or its officials in accordance with the laws of the State of Wisconsin.

(5) **COURT ORDER.** Except when necessary under sub. (2), 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.

10.08 **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.

10.15 **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 Municipal Code.