

(Amended 7/12/2010)

CHAPTER XX

PUBLIC NUISANCES

SECTION 20.00. Public Nuisances Prohibited. No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town.

20.01 Intent: Right to Farm. It is the intent of this ordinance to allow continuation of present agricultural uses and practices in the Town. The Town Board finds that changes in agricultural technological practices and scale of operation have, on occasion, tended to create conflicts between agricultural and other activities. The Town Board finds that, to the extent possible consistent with good public policy, the prohibition against public nuisances should not hamper agricultural production or the use of modern technology in lands and areas primarily used for agricultural purposes.

- A. The Town Board confirms the right of a property owner, his lessee or assign, to continue an agricultural use or practice conducted at the same location, on substantially the same scale, and in substantially the same manner as at the time of the adoption of this ordinance.
- B. In any nuisance action against an agricultural use or agricultural practice conducted in agricultural areas of the Town, the relief granted, if any, shall not substantially restrict or regulate such uses or practices unless the court specifically finds that such relief is necessary to protect the public health or safety and such uses or practices affect an appreciable number of persons within the Town.

SECTION 20.10. Definitions.

20.11. Public Nuisance. A public nuisance is a thing, act, occupation, condition or use of property which shall continue 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 for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

20.12. 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 20.11 of this section:

- A. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- B. 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.
- C. 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.
- D. Privy vaults and garbage cans which are not fly-tight.
- E. All noxious weeds and other rank growth of vegetation.
- F. All animals running at large.
- G. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Town 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 in the Town.
- H. 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.
- I. Any use of property, substances or things within the Town 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 Town. (This provision is not intended to preclude application of sludge and organic fertilizer for normal agricultural purposes.)
- J. All abandoned wells not securely covered or secured from public use.
- K. 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 Town.

20.13. 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 20.11 of this section.

- A. 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.
- B. All gambling devices and slot machines.
- C. 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 Town and/or laws of the State of Wisconsin.
- D. 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. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinances of the Town.

20.14. 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 provisions of 20.11 of this section:

- A. 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.
- B. All buildings erected, repaired or altered within the fire limits of the Town in violation of the provisions of the ordinances of the Town relating to materials and manner of construction of buildings and structures within said district.
- C. 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 signal or which because of its color, location, brilliance or manner of operation interfered with the effectiveness of any such device, signal or sign.
- D. 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. All limbs of trees which project over and less than 14 feet above the surface of a public sidewalk or street or less than 10 feet above any other public place.

- F. All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Town.
- G. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- H. All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.
- I. All loud, discordant and unnecessary noises or vibrations of any kind.
- J. 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 or disturb a neighborhood or any considerable number of persons within the Town.
- K. 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 or 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.
- L. All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- M. All abandoned 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.
- N. 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.
- O. Repeated or continuous violations of the ordinances of the Town or laws of the State of Wisconsin relating to the storage of flammable liquids.
- P. All snow and ice not removed or sprinkled with ashes, sawdust or sand.

SECTION 20.20. Abatement of Public Nuisances.

20.21. Inspection of Premises. Whenever complaint is made to the Town Chairman that a public nuisance exists within the Town, he shall promptly notify the Constable, Health Officer or Building Inspector, who shall forthwith inspect or cause to be inspected the premises complained of and shall make a written report of his findings to the Town Chairman. 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.

20.22. Summary Abatement.

- A. Notice to Owner. If the inspecting officer shall determine 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 Chairman may direct the Constable to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises which 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 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.

- B. Abatement of 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 Health Officer in case of health nuisances, and the Constable, in other cases, shall cause the abatement or removal of such public nuisance.

20.23 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 file a written report of his findings with the Town Chairman who shall cause an action to abate such nuisance to be commenced in the name of the Town in the Circuit Court of Kenosha County in accordance with the provisions of the Wisconsin Statutes.

20.24. Cost of Abatement. In addition to any other penalty imposed by this ordinance 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 cost shall be assessed against the real estate as a special charge.

SECTION 20.30. Penalty for Violations of Sections 20.11 through 20.14.

20.31. First Offense/Penalty. Any person who shall violate Sections 20.11 through 20.14 of these Ordinances shall, upon conviction thereof, forfeit not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars together with the cost of prosecution and in default of payment of such forfeiture and the cost of prosecution, shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not exceeding thirty (30) days.

20.32 Second Offense/Penalty. Any person guilty of violating Section 20.11 through 20.14 of these Ordinances who shall previously have been convicted of a violation of the same ordinance or subsection shall upon conviction thereof forfeit not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars for each such offense, together with the costs of prosecution and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until said forfeiture and costs of prosecution are paid, but not to exceed thirty (30) days.

SECTION 20.40. Public Nuisances Affecting Health.

The statutory provisions describing and defining regulations with respect to indoor smoking contained in §101.123 of the Wisconsin Statutes, known as the Clean Indoor Air Act, exclusive of any provisions therein relating to the penalties to be imposed or the punishment for violation of such statutes, are hereby adopted and by reference made a part of this Section as if fully set forth herein. Any act required to be performed or prohibited by §101.123 Wis. Stats., and incorporated herein by reference is required or prohibited by this Section. The penalty for violation of §101.123(2), Wis. Stats., relating to an individual smoking in a prohibited area, shall be a forfeiture of Twenty-five (\$25.00) Dollars for the first violation and Fifty (\$50.00) Dollars for each violation thereafter. The penalty for violation of §101.123(2m), Wis. Stats., relating to responsibility of persons in charge allowing smoking in violation of law, shall be a forfeiture of Fifty (\$50.00) Dollars for the first violation and One Hundred (\$100.00) Dollars for each violation thereafter.