

CHAPTER 10

PUBLIC NUISANCE

10.01 PUBLIC NUISANCE PROHIBITED. No person shall erect, contrive, cause, continue, maintain or permit to exist, any public nuisance within the town.

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 so 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.

10.03 PUBLIC NUISANCES AFFECTING HEALTH. The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace, health and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace, health or safety coming within the definition the town.

(1) Illegal Buildings. All buildings erected, repaired or altered in violation of the provisions of the ordinances of the town relating to materials and manner of construction of buildings and structures within the town.

(2) 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.

(3) Burning of Refuse. The burning of all trash, rubbish, refuse of any kind, shall be permitted within the Township of Freedom, Outagamie County, Wisconsin, in those areas where residential homes are less than 300 feet apart only between the hours of 4:00 P.M. and 9:00 P.M. on each day. It shall be unlawful for anyone to burn trash, rubbish, or refuse of any kind within the Town of Freedom in those areas where residential homes are less than 300 feet apart at anytime other than that permitted by this section. It shall be further unlawful for anyone to burn paper or other like man-made materials outdoors in the Township of Freedom, Outagamie County, Wisconsin, unless said burning is done in an incinerator or like type of container which will eliminate ashes from leaving the site of the burning.

(4) Disposition of Waste Material. It shall be unlawful for any person, corporation, partnership, or other type of organization, to deposit waste on lands in the Township of Freedom, Outagamie County, Wisconsin, unless there is first obtained from the clerk of the Town of Freedom, a permit authorizing such disposition. A separate

permit must be obtained by each property owner upon whose land such disposal of waste shall take place and such permit shall be valid for seven (7) calendar days after date of issuance. A permit shall not be required for deposit of waste on a duly licensed land fill site.

Waste as defined for the purposes of this ordinance shall mean garbage, sludge from waste water treatment plants, and other organic wastes but excluding from this definition animal manure commonly used by farmers for fertilizer.

The permit shall be obtained by applying to the Clerk of the Township of Freedom and such application shall be in writing and shall state the date that the disposal shall take place; the name of the property owner upon whose land such disposal shall take place; an adequate description of the lands upon which such disposal shall take place; the source from which the waste material is acquired; the name and address of the party transporting or delivering such waste material to the property owner in event the property owner is not such transporting party. A fee of \$100.00 shall be charged for each permit. No permit shall be issued until the fee has been first paid to the Clerk. Applications for permit shall be made by the property owner upon whose land the disposal is to take place. A permit so acquired shall be displayed publicly on the premises upon which the waste disposal is being made.

It shall be unlawful for the property owner upon whose land such disposal of waste occurs to store or stockpile such waste delivered to the property. The application of the waste upon the property shall be not over three inches in depth in anyone place and may not be applied on the same property more often than once every four years. The property owner must work such waste into the soil within the time limits as may be prescribed by any regulations by the Department of Natural Resources of the State of Wisconsin but in no event shall said waste be on the property without being worked into the soil for a period of longer than 48 hours after the same has been applied.

The property owner, for the purposes of this section, is defined as being any person, partnership, corporation, or other type of organization owning, renting, or otherwise using or controlling the use of lands within the boundaries of the Township of Freedom, Outagamie County, Wisconsin, and upon whose land waste is disposed of or distributed requiring a permit under the terms of this section. A transporter, for the purposes of this section is defined to be any person, partnership, corporation, or other type of organization who, by truck, or other conveyance, hauls waste subject to the provision of this section within the boundaries of the Township of Freedom, Outagamie County, Wisconsin.

The Township of Freedom may require any transporter of waste materials in the Township of Freedom, for disposition on lands in the Township of Freedom pursuant to this section, to present an adequate analysis of the waste material so being transported for disposition so as to enable the determination as to whether bacteria harmful or injurious to the general public exists in such wastes. Failure on the part of a transporter to produce an adequate analysis upon request of the Town Clerk of the Township of

Freedom, shall constitute a violation of this section. The Township of Freedom reserves the right to take random samples of waste disposed of on lands in the Township of Freedom, pursuant to this section, at any time, and if such samples disclose bacteria harmful or injurious to the health of the general public, then the transporter of said waste material shall be in violation of this ordinance and subject to prosecution hereunder.

It is hereby declared to be the intention of the Town Board of the Township of Freedom that the several provisions of this section are separable in accordance with the following:

(a) If any court of competent jurisdiction shall adjudge any provision of this section to be invalid, such judgment shall not affect any other provisions of this section not specifically included in this judgment.

(b) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this section to a particular property, such judgment shall not affect the application of said provisions to any other property not specifically included in said judgment.

10.04 ABATEMENT OF PUBLIC NUISANCES

(1) Enforcement. The Chief of Police, the 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 shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does in fact exist.

(2) Summary Abatement. 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 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 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 such 10 days, the proper officer shall cause the nuisances 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 Town or its officials in accordance with the laws of the State of Wisconsin.

10.05 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 cost shall be assessed against the real estate as a special charge.

10.06 CHRONIC NUISANCE PREMISES.

(1) Definitions. The following terms shall be defined as follows:

- a. Chief. The Chief of Police or his or her designee.
- b. Enforcement Action. Arrest, the issuance of a citation, or the issuance of a written or verbal warning.
- c. Nuisance Activity. Any of the following activities, behaviors, or conduct occurring on a premises:
 - (i) An act of Harassment, as defined in §947.013, Wis. Stats.
 - (ii) Disorderly Conduct, as defined in §947.01. Wis. Stats.
 - (iii) Battery, Substantial Battery, or Aggravated Battery, as defined in §940.19, Wis. Stats.
 - (iv) Lewd and Lascivious Behavior, as defined in §944.20, Wis. Stats.
 - (v) Prostitution, as defined in §944.30, Wis. Stats.
 - (vi) Theft, as defined in §943.20, Wis. Stats.
 - (vii) Receiving stolen Property, as defined in §943.34, Wis. Stats.
 - (viii) Arson, as defined in §943.02, Wis. Stats.
 - (ix) Possession, Manufacture, or Delivery of a Controlled Substance or related offenses, as defined in Ch. 961, Wis. Stats.
 - (x) Gambling, as defined in §945.02, Wis. Stats.
 - (xi) Animal violations, as defined in §5.15 Code of Ordinances.

- (xii) Trespassing, as defined in §943.13 and §943.14, Wis. Stats.
- (xiii) Weapons violations, as defined in Chapter 943 Wis. Stats.
- (xiv) Noise violations, as defined in §5.45 Code of Ordinances.
- (xv) Any conspiracy to commit, as defined in §939.31, Wis. Stats., or attempt to commit, as defined in §939.32, Wis. Stats. any of the activities, behaviors, or conduct enumerated in subdivisions 3.a through n. above.
- (xvi) The execution of arrest or search warrants at a particular location.
- (xvii) Alcohol violations, as defined in §125.07, Wis. Stats.
- (xviii) Obstructing or Resisting an Officer, as defined in §946.41, Wis. Stats.
- (xix) Building Inspection related calls where the Police Department responds.
- (xx) Owner. The owner of the premises and his or her agents.
- (xxi) Premises. An individual dwelling unit, an apartment building (all units included as one premises), or an individual business premises and associated common areas.

(2) Notice. Whenever the Chief determines that three or more nuisance activities resulting in enforcement action have occurred at a premises during a 12-month period, the Chief may notify the premises owner in writing. In calculating the requisite nuisance activities, the Chief may count separate qualifying nuisance incidents resulting in enforcement action occurring on the same day (as long as they are distinct in time) or different days, but shall never count nuisance activities that were reported by the owner of the premises. The notice shall contain the street address or legal description sufficient to identify the premises, a description of the nuisance activities that have occurred at the premises, a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to the appeal rights of the owner.

(3) Abatement Plan. Any owner receiving notice pursuant to Sec. (2) shall meet with the Chief, or his/her designee, within 5 days of receipt of such notice. The parties shall review the problems occurring at the property. Within 10 days of this meeting, the owner shall submit to the Chief, or his/her designee, an abatement plan to end the nuisance activity on the property. The plan shall also specify a name, address,

and telephone number of a person living within 60 miles of the property who can be contacted in the event of further police, fire or inspection contact.

(4) Additional Nuisance Activity. Whenever the Chief determines that additional nuisance activity has occurred at a premises for which notice has been issued pursuant to Section (2) above, that this nuisance activity has occurred not less than 15 days after notice has been issued, and that reasonable efforts have not been made to abate the nuisance activity, the Chief may calculate the cost of police response and enforcement for this and any subsequent nuisance activities and cause such charges and administrative costs to be assessed and collected as a special charge.

10.07 WEEDS AND OTHER VEGETATION.

(1) Definitions.

a. Destroy. The complete killing of weed plants above the surface of the ground by the use of chemicals or by cutting at such time and in such manner as will effectively prevent such plants from maturing to the bloom or flower stage.

b. Preservation or restoration area. Any lands managed to preserve or restore native Wisconsin grasses and forbs, native trees, shrubs, wildflowers and aquatic plants; an old field succession of native and non-native plants, or a combination of these. Includes formerly farmed areas left to grow wild but does not include farmland left temporarily fallow for agricultural reasons.

c. Turf Grass. Grass commonly used in regularly-cut lawns or play areas such as, but not limited to, bluegrass, fescue and ryegrass blends.

(2) No person shall permit turf grass areas to grow to a height exceeding eight (8) inches above soil level on land that (s)he owns, occupies, or controls.

(3) No person shall permit grass or weeds to grow to a height exceeding twelve (12) inches on land that (s)he owns, occupies, or controls.

(4) Every person shall destroy all noxious weeds on land that (s)he owns, occupies, or controls. The term "noxious weeds" as used herein includes Canada thistle, leafy spurge, field bindweed (Creeping Jenny), wild parsnip and any others that may, from time to time, be added to the noxious weed list by the Town.

(5) No person shall plant or cultivate the following nuisance plant species on land which (s)he owns, occupies, or controls: multiflora rose, burdock, garlic mustard, purple loosestrife, glossy or common buckthorn, box elder, black locust, and any others that may, from time to time, be added to the nuisance plant list in by the Town.

(6) The Town' Chairperson, or his(her) designee, shall give a seven (7) day written notice to the owner, occupant, or person in control of any land containing weeds

or grasses in excess of twelve (12) inches in height, or turf grass areas in excess of eight (8) inches in height, or any noxious or intentionally planted or cultivated nuisance plants, directing him(her) to forthwith comply with the provisions of this section.

(7) Exceptions to the requirements in 10.06(2) through 10.06(3), above, are specifically granted for the following:

a. Any land owned or leased by the Wisconsin Department of Natural Resources or owned by the Town that are preserved as natural areas by design.

b. Any land on a natural floodplain adjacent to, or waterway flowing to Apple or Duck Creeks or any other navigable waterway that has been allowed to remain in its natural state to enhance the water quality of those bodies of water.

c. Wooded areas or in tree lines where the distance between trees effectively prevents mowing of vegetation.

d. Parcels exceeding two (2) acres in size and contiguous to other parcels maintained as preservation or restoration areas.

e. For parcels over one (1) acre in size but less than two (2) acres in size that are contiguous to unplatted lands exceeding two acres in size and have been maintained as preservation or restoration areas. Areas beyond a yard maintained in turf grass surrounding the residence and extending to all abutting streets, providing that;

i. This yard shall, at minimum, extend out from the residence a distance equal to the required setback on each side of the house and to the full length or width of the lot measured along abutting street side(s) of the parcel. Setback distances referenced are those in the County Zoning Ordinance for side and rear yard setbacks for the zoning district of the parcel.

ii. Areas beyond this yard which are not on those sides of the lot that are contiguous to unplatted lands exceeding two acres in size and maintained as preservation or restoration areas, must also comply with 10.06(2) and 10.06(3), above.

f. Controlled plantings (beds) of:

i. Biennial or perennial native wildflowers and/or grasses intentionally planted in beds as a "prairie garden" or "rain garden;"

ii. Ornamental grasses.

g. On platted lands (subdivisions or developments) where covenants and restrictions specifically approved by the Town Board allow or require lots to remain in their natural or "rough" state.

h. Any parcel exceeding three (3) acres in size, and currently in “agricultural use”, as defined in Section 66.0721, Wis. Stats.

(8) If any owner, occupant, or person in control of any such land fails, within seven days, to cut such vegetation, or to destroy such noxious or invasive weeds, then the Town will abate the violation, by mowing the vegetation or destroying such noxious or invasive weeds, and the costs of abatement, together with the costs of enforcement and administration shall be billed to the landowner. Such costs shall be placed on the tax roll as a special tax to be collected in the manner of other taxes, unless such lands are exempt.

(9) The Town shall annually on or before May 15 publish a Class 2 Notice that every person is required by law to destroy all noxious weeds and to cut all other weeds and grass exceeding twelve (12) inches, or turf grasses exceeding eight (8) inches, in height on land which the person owns, occupies, or controls. Failure to publish said notice shall not be a defense to any prosecution for violation of the provisions of this section.

10.08 PENALTY. Any person, partnership, corporation, or other entity, convicted of a violation of this chapter shall be fined not less than \$50.00, nor more than \$500.00 together with costs of prosecution of each offense. Every calendar day of violation shall be deemed to be a separate offense.