

**CHAPTER 8**

**PUBLIC NUISANCES**

**8.01 PUBLIC NUISANCES PROHIBITED**

*[Chapter Amended, Recreated 8/26/99]*

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

**8.02 DEFINITIONS**

(1) **Public Nuisances.** 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.

(2) **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 Subsection (1) 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 of 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) Any pit, hole, excavation, gully, ditch or depression of any nature whatsoever where water is accumulated and retained for more than seventy-two (72) hours, except drainage ditches installed or maintained by the Town.
- (e) Privy vaults and garbage cans which are not fly-tight.

- (f) All noxious weeds and other over-abundant growth of vegetation.
- (g) All domestic animals running at large.
- (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, effluvial 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.
- (j) Any use of property which causes any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Town.

**8.03 STORAGE OF FLAMMABLE LIQUIDS**

Any violation of the ordinances of the Town of Menasha and the laws of the State of Wisconsin, and the Administrative Code of the State of Wisconsin, adopted by reference under Chapter 5, Town of Menasha Municipal Code, particularly but without limitation Flammable Liquids Code (WI) Wis. Adm. code, WI Dept. of Commerce, Chapter 10, as related to the storage of flammable liquids, etc.

**8.04 TREE TRIMMING AND SANITATION**

- (1) That the owners of trees upon private property which project over public sidewalks, streets or alleys shall also maintain said trees as described herein. When violations are discovered on private property, the Town shall give reasonable notice to the owner to take appropriate action. If the property owner refuses or neglects to follow the order of the Town, the Town may remedy the situation and charge the owner by special assessment to his/her taxes.
  - (a) 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 approaching an intersection or pedestrian crosswalk.
  - (b) All limbs of trees which project over and less than ten (10) feet above any public sidewalk street or other public place shall be kept trimmed to a reasonable height to allow for safe use and passage.

(c) All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.

(2) Hazardous and Infected Trees. Any tree or part thereof, whether alive or dead, which the Town Board shall find to be infected, hazardous or a nuisance so as to endanger the public or other trees, plants or shrubs growing within the Town, or to be injurious to sewers, sidewalks or other public improvements whether growing upon public or private premises, shall be removed, trimmed or treated by the owner of the property upon or adjacent to which such tree or part thereof is located. A tree with the disease known as Dutch Elm Disease, a fatal disease of elms caused by the fungus *Ceratostomella ulmi* Buisman, as well as causal fungus, is specifically included herein as an infected tree. The Town Board shall give written notice to the owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time which the action must be taken, which shall be not less than 24 hours nor more than 14 days as determined by the Town Board on the basis of the seriousness of the condition of the tree or danger to the public. If the owner fails to remove, treat or trim said tree within the time limit, the Town Board shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the Town Clerk who shall enter such cost as a special charge against the property.

(3) No person shall plant any Catalpa, Chinese Elm, White Poplar, Lombardy Poplar, or any fruit or nut tree in or upon any public street, parkway, boulevard or other public place within the Town of Menasha unless he/she shall first secure written permission from the Town Board, which shall not approve any such planting if, in their opinion, said tree will constitute a nuisance to the public or adjoining property owners or interfere with the safety of the public or the operation of any sewer or water system. The Town Board shall cause the removal of any tree planted in violation of this subsection.

**8.05 ABANDONED OR UNATTENDED ICE BOXES OR OTHER CONTAINERS PROHIBITED**

No person shall leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under his/her control, in a place accessible to children, any abandoned, unattended or discharged icebox, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside, without first removing the door or lid snap lock or other locking device from the icebox, refrigerator or container.

**8.06 JUNKED MOTOR VEHICLES**  
*[Amended 1/23/06]*

(1) Junked motor vehicles shall include, but not be limited to, any motor vehicle that is disassembled, dismantled, inoperable, wrecked and/or unlicensed, or parts which have been allowed to remain outside of any building upon public or private property for a period in excess of three (3) days, unless in connection with an automotive sales or repair business located in a properly zoned area, that is licensed under this code or the County of Winnebago.

(2) Pursuant to the authority of WI Stats. 342.40, the Town established the disposal procedures set forth herein. This ordinance further authorizes the Police Chief to enter towing service agreements for disposal of vehicles. Whenever the Police Department shall find any junked motor vehicle, they shall notify the property owner and the owner of the vehicle of the intention of the Town to remove such vehicle. This shall be done by notifying the property owner and vehicle owner that they have seven (7) days to remove the vehicle. If at the end of this period the vehicle has not been removed, the police department shall direct that the vehicle shall be impounded and stored in a suitable place. Disposal of the vehicle shall be in accordance with Subsections (3) and (4). The cost of removal and storage shall be entered on the tax roll of the property owner as a special charge if payment is not made by other means.

(3) Upon impoundment of a junked motor vehicle, the owner and/or lien holder(s) shall be notified by certified mail of their rights to reclaim their vehicle. The owner and/or lien holder(s) shall have ten (10) days after certified mail notice has been sent in which to reclaim the vehicle. The owner and/or lien holder(s) shall be liable for all towing expenses and reasonable storage charges due on the vehicle before it is released. If unclaimed after ten (10) days the vehicle shall be sold in accordance with Subsection (4).

(4) Disposal of *unclaimed vehicles*. When any such vehicle has been removed and placed in storage by the Town as herein provided and such vehicle is not claimed within ten (10) days after such storage, it shall be directed to be sold. If the proceeds of such sale are insufficient to pay the costs for the removal and storage, said owners jointly and severally shall be liable to the Town for the balance of the costs. Disposal of all substantially complete vehicles in excess of 19 model years of age shall be disposed of in accordance with WI States. 342.40(3) (c).

(5) The penalty provided for violation of this code shall apply regardless of whether or not the owner and/or lien holder(s) of such vehicle has paid for the towing expenses and storage charges due as outlined in section 8.06.

**8.07 ABANDONED VEHICLES** [Amended 1/23/06]

- (1) Definition: Abandoned Vehicle
  - (a) Any motor vehicle, semi trailer, trailer, mobile home or snowmobile that is left unattended in ordinary public view, on a public roadway, public property or private property without the permission of the property owner, for more than forty-eight(48) hours.
  - (b) Any motor vehicle, semi trailer, trailer, mobile home or snowmobile that has been legally impounded by the Police Department and not reclaimed within forty-eight (48) hours.
- (2) Pursuant to the authority of WI Stats. 342.40 the Town hereby establishes the disposal procedures set forth herein. Whenever the police Department shall find any abandoned vehicle it shall cause such vehicle to be impounded and stored in a suitable place. The owner/and or lien holder(s) shall be notified by certified mail of their right to reclaim the vehicle. The owner and/or lien holder(s) shall have ten (10) days after certified mail notice has been sent in which to reclaim the vehicle. The owner and or lien holder(s) shall be liable for all towing expenses and reasonable storage charges due on the vehicle, before it is released. If unclaimed after ten (10) days, the vehicle shall be disposed of in accordance with subsection (3).
- (3) Disposal of *unclaimed vehicles*. When any such vehicle has been removed and placed in storage at the direction of the Town as herein proved and such vehicle is not claimed within ten (10) days after such storage, it shall be disposed of as directed by the Town. If the proceeds of such sale are insufficient to pay the costs for the removal and storage, said owners jointly and severally shall be liable to the Town for the balance of the costs. This ordinance authorizes the Police Chief to enter into towing service agreements for disposal of abandoned vehicles. Disposal of all substantially complete vehicles in excess of 19 model years of age shall be disposed of in accordance with WI Stats. 342.40(3) (c).
- (4) *Commercial or industrial exception permit*. The Town Board may grant a permit to a person obtaining a business in a commercial or industrially zoned area to keep and store vehicles for the purpose of using spare parts. The permit shall specify the storage area and may require vehicles to be completely enclosed with a fence.
- (5) The penalty provided for violation of this code shall apply regardless of whether or not the owner and/or lien holder(s) of such vehicle has paid for the towing expenses and storage charges due as outlined in subsection (2).

**8.08 MILITARY VEHICLES** [Amended 1/23/06]

No person, firm or corporation shall display or operate a military vehicle or weaponry, amphibious or otherwise anywhere in a zoned residential district and said items shall be subject to the terms, conditions and penalties as defined in section 8.06 and 8.07 of the Town of Menasha Municipal Code and shall be deemed to constitute junked or abandoned and subject to the removal and disposal procedures therein.

This section does not prohibit the possession, transportation or utilization of military vehicles of weaponry by members of the United States Department of Defense which include, but are not limited to the U.S. Army (regular or reserve), U.S. Air Force (regular or reserve), U.S. Navy and Marines (regular or reserve), and U.S. Coast Guard (regular or reserve), or Wisconsin National Guard, or chartered organizations such as the V.F.W. while in the performance of their official capacities and duties. This section also does not apply to any military vehicle with rubber tires that is licensed for on-road use by the State of Wisconsin.

**8.09 FARM MACHINERY/IMPLEMENTS AND FARM VEHICLES**

All farm machinery, farm implements and farm vehicles which shall include, but not limited to, all machinery, implements and vehicles designed primarily for commercial agricultural purposes, or parts thereof, which have been allowed to remain outside of any building upon public or private property which is zoned residential, for a period in excess of three (3) days, unless in connection with an automotive sales or repair business located in a properly zoned area shall be subject to the terms and conditions of section 8.06 of the Town of Menasha Municipal Code.

**8.10 OPEN CISTERNS, WELLS, BASEMENTS OR OTHER DANGEROUS EXCAVATING PROHIBITED**

No person shall have or permit on any premises owned or occupied by him/her any open cistern, cesspool, well, unused basement, excavation or other dangerous opening. All such places shall be filled, securely covered or fenced in such a manner as to prevent injury to any person and any cover shall be of such a design, size and weight that the cover cannot be removed by small children.

**8.11 COVERED HAULING TO DUMP SITE**

No person shall transport or haul to any dumping site in the Town any materials without covering the same as provided under Town Code regulating Solid Waste Disposal Sites.

**8.12 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 provisions

- (1) 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.
- (2) All gambling devices and slot machines.
- (3) 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 the ordinances of the Town.
- (4) 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.
- (5) Any place or premises for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State or ordinances of the Town.

**8.13 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY**

The following acts, omissions, places, conditions and effects are hereby declared to be public nuisances affecting peace and safety. However, such enumeration shall not be interpreted to rule out other nuisances affecting public peace or safety.

- (1) 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.
- (2) 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 the district.
- (3) Any unauthorized sign, signal, marking or device placed or maintained upon or in view of any public highway or railway crossing which appears 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) All use or display of fireworks except as provided by the laws of the State and Ordinances of the Town.
- (5) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- (6) All wires over streets, alleys, or public grounds which are strung less than fifteen (15) feet above the surface thereof.
- (7) All loud, discordant and unnecessary noises or vibrations of any kind. The Town Board shall have the right to waive this provision of Chapter 8 to facilitate public or public-sponsored construction projects when the Town Board determines that the need for more rapid completion of a project outweighs the impact of noises and vibrations. *[Amended 9/12/05]*
- (8) The keeping or harboring of any animal or fowl which by frequent or habitual wailing, crowing or making of other noises greatly annoys or disturbs a neighborhood or any considerable number of persons within the Town. *[Revised 10/9/00]*
- (9) All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under streets, alleys, sidewalks or crosswalks, except as permitted by the ordinances of the Town, or obstructions 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.
- (10) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- (11) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk, or use 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.
- (12) Repeated or continuous violations of the Ordinances of the Town or laws of the State relating to the storage of flammable liquids.
- (13) All snow and ice not removed or sprinkled with a material which accelerates melting or prevents slipping as provided on sidewalks only – not town owned recreational trails.
- (14) Any construction debris or materials, unsightly debris, trash, wood, brick, washing machines, refrigerators or junk such as may tend to depreciate property values or be detrimental to the appearance, neatness and cleanliness of the neighborhood, provided that nothing in this subsection shall prohibit reasonable storage of construction materials during the construction of any building or structure.

**8.14 ABATEMENT OF PUBLIC NUISANCE**

- (1) **Responsibility for Enforcement; Inspections.** It shall be the duty of each department head to enforce those provisions of this chapter that come within the jurisdiction of their respective offices, and each department head shall make or cause to be made periodic inspections and inspections upon complaint to ensure such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the inspecting official has 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. Wherever a complaint is made to the Town Board or is filed with the Police Department, Fire Department, Health Official (*Winnebago County*) or the Building Inspector, the complaint shall be referred to the Clerk who shall distribute copies to each of the following department heads:
- (a) Community Development Department
  - (b) Health Department (*Winnebago County*)
  - (c) Police Department
  - (d) Fire Department
- (2) Upon receipt of the complaint form from the Clerk, the department to which the complaint relates shall immediately inspect the premises complained of.
- (a) Building Inspectors shall investigate those problems that relate to building or structures and their safety.
  - (b) The Health Inspector (*Winnebago County*) shall inspect all public nuisances affecting health as described in this Chapter and referred to elsewhere in the Town's Municipal Code.
  - (c) The Police Department shall inspect all complaints regarding public safety related to this Chapter and violation of the laws referred to elsewhere in the Town's Municipal Code.
  - (d) The Fire Department shall inspect all complaints related to fire safety and violation of the laws referred to elsewhere in the Town's Municipal Code.
- (3) The Inspecting Official shall make a written report within 5 days to the Town Board by filing the report with the Clerk. In cases where the Inspecting Official determines that there is no great or immediate danger, then the Town Board shall instruct the Inspecting Official on the disposition of the nuisance. The Clerk shall distribute copies of the report to other inspection departments when they are filed.
- (4) **Summary Abatement**
- (a) **Notice to Town Officials.** Where the Inspecting Official has determined 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 Inspecting Official shall immediately and before taking any action to abate such nuisance, notify the Chairperson of the Town verbally and as promptly as possible file with the Chairperson written reports of such nuisance. In the absence of the Chairperson, he/she shall notify at least one other Town Board member. The Chairperson or Town Board member so notified shall have the option to call a Special Town Board meeting on an urgent and immediate basis, to consider the actions which the Inspecting Official proposes to take. This Subsection shall not limit the authority or right of the Inspecting Official to proceed on an immediate basis, unless the Town Board convenes and by resolution directs other action to be taken.
  - (b) **Notice to Owner.** When the Inspecting Official 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 Inspecting Official may serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where 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. A copy of such notice shall be filed with the Clerk after it is served and posted.
  - (c) **Remedy from Order.** Any person affected by such order shall, within thirty (30) days of service or publication of the order, apply to the circuit court for an order restraining the Town Inspecting Official from entering on the premises and abating or removing the nuisance, or be forever barred. The court shall determine the reasonableness of the order for abatement of the nuisance.
  - (d) **Authority to Assess Costs.** The cost of abatement or removal of a nuisance under this section shall be collected from the owner, occupant, or person causing, permitting or maintaining the nuisance. If notice to abate the nuisance, if applicable, has been given to the owner, such costs shall be assessed against the real estate as a special charge.

- (5) **Abatement by Court Action.** When the Inspecting Official determines 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/she shall file a written report of his/her findings with the Town Board, requesting that action to abate such nuisance be commenced in the name of the Town in the circuit court of Winnebago County in accordance with the provisions of the WI Stats., including but not limited to, Chapters 141, 146, and 823.
- (6) Other methods not excluded. Nothing in this ordinance shall be construed as prohibiting the abatement of public nuisances by the Town of Menasha or its officials in accordance with the laws of the State of Wisconsin.

#### **8.15 COLLECTION OF ABATEMENT COSTS**

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, as provided by WI Stats. 146 and other sections related to nuisance abatement.

#### **8.16 PENALTY**

Any person who shall violate any provision of this Chapter shall upon due conviction thereof forfeit not less than an amount set forth in Appendix C Fines and Penalties, reference this code section, for each such offense, together with the costs of prosecution, and in default of the 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. *[Amended 11/28/05]*