

Chapter 54

PUBLIC NUISANCES

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ARTICLE I.

IN GENERAL

Sec. 54-1. Public nuisance defined.

(a) A public nuisance is a thing, action, 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) To be so unsightly in appearance as to substantially annoy or interfere with the comfort, value of adjoining property owners and their property;
- (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 private or public property.

(b) The following acts, omissions, places, conditions and things are specifically determined to be public nuisances but such enumeration shall not exclude other nuisances of like or similar nature:

- (1) *Accumulation of junk and debris.* Accumulation of decayed animals or vegetation matter, trash, rubbish, junk, rotting lumber, bedding, packing material, scrap metal, household equipment, furniture and appliances or any other material which by its nature causes an unsightly condition upon the property and in which flies, mosquitoes, disease carrying insects, rats or other vermin may inhabit.
- (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) *Adulterated food.* All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- (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 flytight.

- (6) *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.
- (7) *Noxious odors, etc.* 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.
- (8) *Street pollution.* Any use of property which shall cause any nauseous or unwholesome liquid or substances to flow into or upon any street, gutter, alley, sidewalk or public place within the town.
- (9) *Air pollution.* The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the town limits 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.
- (10) *Storage of refrigerators, etc., deemed a nuisance per se.* No person shall store any refrigerator, freezer or other similar appliance that is capable of being used by children and on which the door or lid can be closed without the ability of being opened from the inside. Any appliance violating this subsection is deemed a nuisance per se and shall be immediately dismantled to render any closing of the door or lid to be ineffectual.

(Ord. No. 85-2, § 2, 5-13-1985)

Cross reference--Definitions generally, § 1-2.

Sec. 54-2. Penalties.

(a) Any person who violates this chapter shall be subject, upon conviction, to a forfeiture of not less than \$50.00, nor more than \$200.00, together with the cost of prosecution, and in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until such forfeiture and costs are paid for a period not exceeding 90 days.

(b) Each violation and each day a violation continues or occurs shall constitute a separate offense under this chapter.

(Ord. No. 85-2, § 5, 5-13-1985)

Sec. 54-3. Public nuisance prohibited.

No person shall create, cause, continue, maintain or permit to exist any public nuisance within the town limits.

(Ord. No. 85-2, § 1, 5-13-1985)

Sec. 54-4. Abatement of nuisance.

(a) *Inspection of premises.* Whenever a complaint is made to the town chair or town board that a public nuisance exists within the town the complaint shall promptly be forwarded to the health department, the chief of police, the chief of the fire department, or the building inspector who shall forthwith cause to be inspected the premises and shall make a written report of his findings to the town board.

(b) *Summary abatement.* If the inspection 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 chair may direct the proper officer to cause the public nuisance 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.

(c) *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 nuisance within ten days. If such nuisance is not removed within such ten days, the proper officer shall cause the nuisances to be removed as provided in subsection (b) of this section.

(d) *Other methods not excluded.* Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the town board or its officials in accordance with law.

(Ord. No. 85-2, § 3, 5-13-1985)

Secs. 54-5--54-30. Reserved.

ARTICLE II.

NOXIOUS WEEDS*

*State law reference--Noxious weeds generally, Wis. Stats. § 66.0407.

Sec. 54-31. "Destroy" defined.

The term "destroy" means the complete killing of weeds or the killing of weed plants above the surface of the ground by the use of chemicals, cutting, tillage, cropping system, pasturing livestock or any or all of these in effective combination, at such time and in such manner as will effectually prevent such plants from maturing to the bloom or flower stage or spreading to adjoining property.

(Ord. No. 83-3, § III, 4-27-1983)

Cross reference--Definitions generally, § 1-2.

Sec. 54-32. Noxious weed defined.

- (a) The term "noxious weeds" as used in this article includes the following:
- (1) Canada Thistle.
 - (2) Leafy Spurge.
 - (3) Field Bindweed (creeping jenny).
 - (4) All Other Thistles.
 - (5) Wild Mustard.
 - (6) Yellow Rocket.
 - (7) Yellow Dock.
 - (8) Giant Foxtail.
 - (9) Velvet Leaf.
 - (10) Quack or Quitchgrass.
 - (11) Wild Hemp (Marijuana that is not grown for lawful commercial purposes).
 - (12) Wild Radish.
 - (13) Buckhorn Plantain.
 - (14) Goatsbeard.
 - (15) Harmful Barberry.
 - (16) Burdock.

(b) The weeds listed in subsection (a) of this section are hereby declared to be "noxious" within the boundaries of the town.

(Ord. No. 83-3, § I, 4-27-1983)

Cross reference--Definitions generally, § 1-2.

Sec. 54-33. Owner or person in control of land to destroy.

Every person shall destroy all noxious weeds as described in section 54-32 on all lands they own, occupy or control. Further, every person, corporation or organization shall destroy all noxious weeds out to the center of any federal, state, county, or town

highways within the town which is adjacent to any lands they shall own, occupy or control.

(Ord. No. 83-3, § II, 4-27-1983)

Sec. 54-34. Notice to destroy.

The town chair shall, each year on or before May 15, publish a Class 2 notice, under Wis. Stats. ch. 985, that every person is required by law to destroy all noxious weeds, as defined and required in this article.

(Ord. No. 83-3, § IV, 4-27-1983)

Sec. 54-35. Weed commissioner; appointment.

The town chair, shall, on or before May 15 in each year, appoint one or more commissioners of noxious weeds. Upon appointment such weed commissioner or commissioners shall take and file in the office of the clerk the official oath. The weed commissioner or commissioners shall serve a term of one year and until a successor has qualified. The weed commissioner or commissioners shall receive such salary as may from time to time be set by the town board. If the town chair determines that more than one weed commissioner shall be appointed, the town shall be divided into districts by the town chair and each weed commissioner shall be assigned a different district. The weed commissioners need not be residents of the district to which they are assigned.

(Ord. No. 83-3, § V, 4-27-1983)

Cross reference--Officers and employees, § 2-31 et seq.

Sec. 54-36. Duties of weed commissioner.

(a) After May 15 of each year and after the town chair has published the notice as provided in section 54-34, the weed commissioner shall investigate concerning the existence of noxious weeds in the town and if any person, corporation or organization has neglected to destroy any weeds as defined herein, the weed commissioner shall, after giving five days' written notice by certified mail to the owner or occupant, destroy or cause to be destroyed all such noxious weeds, in the manner deemed to be the most economical method. The town shall keep accurate records of time and expenses incurred to be charged to each parcel of real estate upon which such weeds were destroyed.

(b) The clerk shall enter upon the tax roll to each tract of land the amount chargeable to that tract for the weed destruction under a column entitled "For the Destruction of Weeds," as a tax, which tax shall be collected as other taxes, except those lands which are exempt from taxation. Those lands such as railroads or other lands not taxed the usual way, the amount chargeable thereto shall be certified to the state treasurer by the clerk pursuant to law, and the town treasurer shall collect such charges pursuant to subch. 1 of ch. 76, Wis. Stats. (Wis. Stats. § 76.01 et seq.), and once collected shall return the funds to the town.

(Ord. No. 83-3, § VI, 4-27-1983)

Sec. 54-37. Liability of weed commissioner.

The weed commissioner or commissioners may, after the written five day notice, enter upon any lands upon which any of the weeds described in section 54-32 are growing and cut or otherwise destroy them, without being liable to an action for trespass or any action for damages resulting from such entry and destruction. The weed commissioner or commissioners shall exercise reasonable care in the performance of the duties imposed in this article.

(Ord. No. 83-3, § VII, 4-27-1983)

Sec. 54-38. Form of notice to cut or destroy noxious weeds.

The form of notice to cut or destroy noxious weeds shall be as follows:

TOWN OF MUKWONAGO
NOTICE TO CUT OR DESTROY
NOXIOUS WEEDS

Notice is hereby given to each and every person who owns, occupies or controls land in the town to cut or destroy the following noxious weeds:

Canada Thistle.

Leafy Spurge

Field Bindweed (creeping jenny).

All Other Thistles.

Wild Mustard.

Yellow Rocket.

Yellow Dock.

Giant Foxtail.

Velvet Leaf.

Quack or Quitchgrass.

Wild Hemp (Marijuana that is not grown for lawful commercial purposes).

Wild Radish.

Buckhorn Plantain.

Goatsbeard.

Harmful Barberry.

Burdock.

of all lands owned, occupied or controlled by such owner in the town and out to the center of any highway on which such lands may abut. You are hereby ordered to cut or destroy the weeds in such manner as shall effectively prevent them from bearing seed or spreading to adjoining property, at your own expense, for the entire season as required by Wis. Stats. § 66.0407 and Ordinance No. 83-3.

Failure to comply could result in the town removing such weeds and the expense of such removal charged to the applicable real estate pursuant to Wis. Stats. § 66.92(1).

Doris Morse, Weed Commissioner 392-2861

Peter Gardner, Chairman

Esther S. Christenson, Clerk
(Ord. No. 83-3, 4-27-1983)