

Public Nuisance

		Page
8.01	Public Nuisance Prohibited	2
8.02	Definitions	2
8.03	Chronic Nuisance Premises	6
8.04	Invasive Species	8
8.05	Air Pollution	8
8.06	Abatement of Public Nuisances	9
8.07	Cost of Abatement	10
8.08	Disposition of Waste Material	10
8.09	Regulation of Smoking	10

8.01 PUBLIC NUISANCES PROHIBITED. No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance with the City.

8.02 DEFINITIONS.

(1) 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) 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 hereby specifically declared public 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 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) All stagnant water in which mosquitoes, flies or other insects can multiply.
- (e) Privy vaults and garbage cans which are not fly-tight.
- (f) All noxious weeds and other rank growth of vegetation. Defined as "any species of plants, either annual, biennial, or perennial, reproduced by seed, root, underground stem, or bulblet, which when established is or may become destructive and difficult to control by ordinary means of cultivation or other farm practices." The main differences between a common weed and a noxious weed are: the noxious weed's high capacity for destruction and the extreme difficulty in controlling or eradicating the invading species.

A noxious weed is a plant that has been defined as a pest by law or regulation. The U.S. government maintains lists of plants that are considered threats to the well being of the state or the country.

- (g) **ANIMALS IN THE CITY: (#864 7/21/98)** No person who owns, harbors, keeps, or has under his or her control a dog, cat, horse, cow, sheep, swine, reptile, any fowl, or any other animal shall: permit the same to run or fly at large in the City at any time. Each person of such animal or fowl shall confine it within the limits of his or her premises except when it is attended by some person, and fastened securely by a suitable leash not more than 10 (ten) feet in length. For the purposes of this section, the phrase “running at large” includes all places within the City except the owner’s premises.
 - (h) **IMPOUNDMENT OF ANIMALS. (#864 7/21/98)** Any Police Officer finding any dog, cat, horse, cow, sheep, swine, reptile, any fowl, or any other animal running at large within the City, shall take and confine it at any approved animal shelter. The owner of the animal or fowl shall pay costs for containment of the animal at the usual and customary fees of the shelter.
 - (i) 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.
 - (j) 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 stench 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.
 - (k) All abandoned wells not securely covered or secured from public use.
 - (l) 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.
- (3) **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 subsection (1) of this section:
- (a) All houses, buildings and structures used for prostitution 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 City.
- (d) 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.

(4) **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 subsection (1) 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 City in violation of the provisions of the ordinances of the City, 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 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.
- (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 10 feet above the surface of a public sidewalk or street or other public place.
- (f) All use or display of fireworks except as provided by the laws of the State of Wisconsin and as provided in Section 7.03.
- (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 18 feet above the surface thereof.
- (i) All loud, discordant and unnecessary noises or vibrations of any kind as provided in Section 7.07.

- (j) All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the City 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.
- (k) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- (l) All abandoned refrigerators, iceboxes or other containers which have air-tight doors from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- (m) 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.
- (n) Repeated or continuous violations of the ordinances of the City or laws of the State of Wisconsin relating to the storage of flammable liquids.
- (o) All snow and ice not removed as provided in section 5.06 of this Code.
- (p) Harboring certain animals prohibited. No person shall own, harbor, or keep any dog, cat, horse, cow, sheep, swine, reptile, any fowl, or any other animal which habitually makes noise to the annoyance of 2 (two) or more individuals residing in separate households. (Ord. # 864 7/21/98)
- (q) The construction or maintenance of barbed wire or other similarly hazardous fences in a residentially zoned and developed area as defined in Chapter 16.
- (r) No owner or keeper of any dog shall harbor such dog if it becomes vicious. A vicious dog is defined herein as any dog who has bitten any person and whose bite has penetrated or lacerated the skin of such person. Proof of notice to the owner or keeper of such dog or knowledge by him that his dog is vicious shall not be necessary. (Ord. #648 8/6/86)
- (s) No owner or occupant of a residential or commercial premises shall accumulate or store rubbish, boxes, lumber, scrap metal, appliance, or any other material or furniture designed for interior use when it is exposed to the weather for longer than 24 hours in such a manner that may be unsightly to, incompatible with, or repugnant to the residential or commercial neighborhood. (Ord. #839 8/5/97)

- (t) Control of Animal Excretion. No person will walk, ride, lead, or control any dog, cat, horse, cow, sheep, swine, reptile, any fowl, or any other animal on any street, sidewalk, alley, park, or other public place, unless the person is carrying a proper container to dispose of excreted animal waste and picks up and properly disposes of any animal waste which may be excreted by the animal or fowl. Proper container shall be interpreted to be a pail, bag, box or other object of non-porous material suitable for holding animal waste.
(Ord. #864 7/21/98)

8.03 CHRONIC NUISANCE PREMISES. (Ord. No. 1090 6/19/12)

- (1) The Chief of Police or his designated Lieutenant are responsible to enforcement action arrest, the issuance of a citation, the issuance of a written or verbal warning.

(2) DEFINITION OF NUISANCE ACTIVITY.

Any of the following activities, behaviors, or conduct whenever engaged in by property owners, operators, tenants, occupants, or persons associated with the premises.

- (a) An act of harassment is defined in 947.01(3) of the Wisconsin State Statutes
- (b) Disorderly Conduct as defined in 947.01 of the Wisconsin State Statutes
- (c) Crimes of violence as defined in Chapter 940 of the Wisconsin State Statutes
- (d) Obstructing or resisting an officer as defined in 946.41 of the Wisconsin State Statutes
- (e) Crimes against sexual morality as defined in Chapter 944 of the Wisconsin State Statutes
- (f) Any gambling crimes as defined in Chapter 945 of the Wisconsin State Statutes
- (g) Animal violations as defined in Chapter 8 of the City of Chilton Municipal Codes
- (h) Theft as defined in 943.20 of the Wisconsin State Statutes
- (i) Receiving stolen property as defined in 943.34 of the Wisconsin State Statutes
- (j) Damage to property as defined in 943.01 of the Wisconsin State Statutes
- (k) Possession, manufacture, or delivery of controlled substances or related offenses as defined in Chapter 961 of the Wisconsin State Statutes
- (l) Trespassing as defined in 943.13 and 943.14 of the Wisconsin State Statutes

- (m) Noise violations as defined in Chapters 4 and 7 of the City of Chilton Municipal Codes
 - (n) Alcohol violations as defined in Chapter 6 of the City of Chilton Municipal Codes and Chapter 125 of the Wisconsin State Statutes
 - (o) Loitering and curfew violations as defined in Chapter 7 of the City of Chilton Municipal Codes
 - (p) Reckless driving as defined in 346.62 of the Wisconsin State Statutes
 - (q) The execution of arrests and search warrants at a particular location
 - (r) Violations of the Public Nuisance Ordinances as contained in Chapter 8 of the City of Chilton Municipal Codes
 - (s) Contributing to the delinquency of a child as defined in 948.40 of the WI State Statutes. (Ord. No. 1103 1-21/14)
- (3) OWNER. The owner of the premises and his or her agents.
- (4) EXCEPTION. Any offense that may be listed under this section which is determined to be a domestic violence event as described under 968.075 shall not be considered a nuisance activity for purposes of this section.
- (5) PERSONS ASSOCIATED WITH. Any person who, whenever engaged in a public nuisance activity enters, patronized, visits, or attempts to enter or visit a property including any officer, director, customer, agent, employee, or independent contractor of a property owner, tenant, or occupant.
- (6) PROPERTY. Any residentially zoned or residentially used parcel of land or structure.
- (7) VERIFIABLE EVENT. An event that is initially observed by a police officer or a call for service that is reported to the police department by a known person who can be identified to support the event or the call for service that is reported to the police department. If the event is substantiated by a police officer or witness.
- (8) PROCEDURE.
- (a) Whenever the Chief of Police determines that two or more nuisance activities have occurred at a property address on separate occasions or on the same date, but two separate incidents, the Chief of Police shall notify the property owner that the property owner is in danger of becoming a chronic nuisance property.

Revised 1/21/14

(b) Whenever the Chief of Police determines that three nuisance activities have occurred at a property during a calendar month or six nuisance activities have occurred at a property address during a 12-month period and said nuisance activities are verifiable events, the Chief of Police shall notify the property owner in writing that the property is a chronic nuisance property and any further violations within said month or 12-month will be a violation.

(9) PENALTY. Any person who shall violate any provision of this chapter shall be subject to the penalty provided by Sec. 20.04 of this Code.

8.04 INVASIVE SPECIES (Ord. No. 1097 11/20/12)

(1) PUBLIC NUISANCE. No person shall permit any of the following public nuisances to remain on any premises owned or controlled by him or her within the City:

(a) Any living, dying, or diseased infested foliage recognized by state or federal agencies is deemed a public nuisance.

(b) Any transportation of diseased infested foliage shall follow state and federal agency guidelines.

(c) The City Forester or designee has the right to enter the property and inspect any foliage that may be diseased, infested or hazardous.

(2) COST OF ABATEMENT. If the property owner does not take care of the diseased or infested foliage the City has the right to take care of the cause with the entire cost of abating any such public nuisance or part thereof chargeable to and assessed against the parcel or lot abutting on the street, alley, or parkway upon or in which such foliage is located, or the parcel or lot upon which such tree stands. The cost of abating any such nuisance, which is located in or upon any park or public grounds, shall be borne by the City.

8.05 AIR POLLUTION.

(1) PUBLIC NUISANCE. The emission or escape into the open air of such quantities of smoke, ash, dust, soot, cinders, acid or other fumes, dirt or other material or noxious gases in such place or manner as to cause injury, detriment or nuisance is a public nuisance and prohibited.

(2) INSTALLING SMOKE PRODUCING DEVICES. Any person who shall construct, alter or repair any steam stationary plant boiler or furnace, or the stack or chimney used in connection therewith, in the City shall make application at the office of the City Clerk for a permit for that purpose, and shall furnish a written statement giving the style and dimensions of such steam plant, boiler or furnace, together with the height and size of any stack or chimney and the device or method to be used to prevent the escape or emission into the open air of such quantities of smoke, ash, dust, soot, cinders or noxious fumes, or gases in such manner as to cause injury, detriment or nuisance; and if such application and the statements therein be approved

by the Common Council, the Clerk shall issue a permit for such construction, alteration or repair.

Revised 11/20/12

- (3) ACCIDENTS TO BE REPORTED. All accidents to stationary steam boilers, furnaces and smoke preventing devices, shall be reported to the City Clerk in writing, giving the nature of the accident and the time required to repair the same.

8.06 ABATEMENT OF PUBLIC NUISANCES.

- (1) ENFORCEMENT. The Chief of Police, the Chief of the Fire Department, the Building Inspector 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.

- (a) Notice to Owner. 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 Chief of Police to 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 City 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 by City. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the officer having the duty of enforcement shall cause the abatement or removal of such public nuisance.

- (3) 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 Mayor, who, upon direction of the Common Council, shall cause an action to abate such nuisance to be commenced in the name of the City in the Circuit Court in accordance with the provisions of Chapter 823, Wis. Stats.

- (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.

8.07 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.

8.08 DISPOSITION OF WASTE MATERIAL. (Ord. #711 11/21/89)

- (1) PUBLIC NUISANCE. It shall be unlawful for any person, corporation, partnership, or other type of organization, to deposit “waste” on lands in the city unless the provisions of this ordinance are complied with. 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.
- (2) DEFINITIONS.
 - (a) “Waste” shall mean garbage and other organic wastes including any and all liquid animal manure and turkey manure. Excluded from this definition is solid cow manure commonly used by farmers for fertilizer.
 - (b) The “property owner”, for the purposes of this ordinance, 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 City of Chilton, Calumet County, Wisconsin.
- (3) STORAGE AND DISPOSITION. The storage and disposition of solid cow manure commonly used by farmers for fertilizer shall not be regulated by this ordinance. However, the application of liquid animal manure and turkey manure commonly used by farmers for fertilizers, when applied to lands, the “property Owner” shall work such manure into the soil within the time limits as may be prescribed by any regulations by the DNR of the State of Wisconsin, but in no event shall liquid manure or turkey manure be on the property longer than forty-eight (48) hours without being worked into the soil after the same has been applied.

8:09 REGULATION OF SMOKING (Ord. #1058 1-19-2010, Ord. # 1035 11/18/08)

(1) FINDINGS AND PURPOSE.

(a) The Common Council of the City of Chilton hereby finds that:

It is recognized that smoking of cigarettes and tobacco products is hazardous to an individual’s health and may affect the health of nonsmokers when they are involuntarily in the presence of smoking.

Numerous scientific studies have found that tobacco smoke is a major contributor to indoor pollution.

Reliable scientific studies, including studies conducted by the Surgeon General of the United States, have shown that breathing side stream or secondhand smoke is a significant health hazard to nonsmokers; particularly to children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease.

Health hazards induced by breathing side stream or secondhand smoke include lung cancer, respiratory infection, decreased respiratory function, decreased exercise tolerance, bronchial constriction and bronchial spasm.

Reliable scientific studies assessed by the California Environmental Protection Agency have found that side stream and secondhand tobacco smoke is a leading cause of premature death and disability among nonsmokers.

Air pollution caused by smoking is an offensive annoyance and irritant. Smoking results in serious and significant physical discomfort to nonsmokers.

- (b) This ordinance is adopted for the purpose of protecting the public health, safety, comfort and general welfare of the people of the City of Chilton, especially recognizing the rights of nonsmokers who constitute a majority of the population.

(2) STATUTORY ADOPTION.

Section 101.123, Wisconsin Statutes including any subsequent amendments thereto, is adopted by reference as if more fully set forth herein.

(3) ADDITIONAL DEFINITIONS. The following definitions are in addition to those described in Sec. 101.123 of the Wisconsin Statutes:

- (a) Indoor Municipal Places – Means all City-owned buildings and pavilions; include buildings or pavilions owned by the city and leased to others.
- (b) Vehicle – Means a car, truck snowplow, police squad, and any type of automobile or motor vehicle owned or leased by the City.

(4) ADDITIONAL PROHIBITIONS. Smoking is prohibited in the following locations, facilities and property, in addition to the prohibitions described in Sec. 101.123(2) of the Wisconsin Statutes:

- (a) All Indoor Municipal Places and Vehicles
- (b) Morrissey Park Playground

- (c) Morrissey Park in its entirety, during all public school functions, e.g. football games, track meets and other athletic events and school ceremonies.
- (5) PENALTIES. The penalty provisions described in Sec. 101.123(8) of the Wisconsin Statutes, adopted by reference in paragraph (2) above, shall apply rather than Sec. 20.04 of the Municipal Code.