

**TOWN OF COTTAGE GROVE
NOTICE OF PUBLIC HEARING**

PLEASE TAKE NOTICE that the Town Board of the Town of Cottage Grove will hold a public hearing at 7:00 p.m. on Monday, July 18, 2022, at the Cottage Grove Town Hall, 4058 County Road N, to receive public comments on proposed amendments to s. 11.09 and s. 11.10 of the Town Code of Ordinances (Property Maintenance).

All interested parties are invited to attend said hearing and be heard. After the public hearing, the Town Board will consider adoption of the proposed amendments to s. 11.09 and s. 11.10. The proposed amendments are attached or available for viewing at the Town Hall, 4058 County Road N, Cottage Grove, WI. Any person who has a qualifying disability, as defined by the Americans With Disabilities Act, who requires the meeting or materials at the meeting to be in an accessible location or format must contact the Town Clerk at (608) 839-5021 or clerk@tn.cottagegrove.wi.gov at least 24 hours prior to the commencement of the meeting so that any necessary arrangements can be made to accommodate each request.

Kim Banigan, Clerk
Town of Cottage Grove
Posted 07-15-2022

TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

11.09 PROPERTY MAINTENANCE

(1) PURPOSE.

(a) The general purpose of this Ordinance is to protect and enhance the public health, safety, and general welfare of the residents of the Town by establishing minimum standards for maintenance of premises.

(b) To further its general purpose, this Ordinance has the following objective: To provide a means to declare that certain land, buildings and structures are detrimental to the health, safety and general welfare of the residents of this community, and require that the community standards set forth in this Ordinance be enforced.

(2) APPLICABILITY.

This Ordinance shall apply to all land, buildings, and structures (sometimes referred to collectively herein as “premises”) in the Town, without regard to its class or its date of construction, alteration, or repair. ~~The Owner of same shall be responsible for ensuring that the Premises conform to the requirements of this Ordinance.~~

Commented [WSC1]: Redundant with (5) below

(3) INTERPRETATION.

This Ordinance is not intended to replace or modify standards otherwise established for the construction, replacement or repair of buildings and structures. However, in the event there is any inconsistency or conflict between the provisions of this Ordinance and any other existing Town Ordinance, the more restrictive provisions shall apply.

(4) DEFINITIONS.

(a) Owner. Any person who alone, jointly, or severally with others, shall hold title to premises, or who shall be in actual possession of, or have charge, care or control of premises as an employee or agent of the title holder, or who shall be trustee or guardian of the estate or person of the title holder. For purposes of providing notice under this Ordinance, the Town may rely on the presumption that the owner is the person or persons designated on the tax roll with respect to the premises.

(b) Occupant. Any person occupying or having use of premises or any part thereof.

(c) Operator. Operators shall mean any person who has apparent authority for charge, care or control of premises or any part thereof.

(5) COMPLIANCE IS RESPONSIBILITY OF OWNERS AND OCCUPANTS.

Each owner and occupant of the premises shall have an independent responsibility for compliance. All owners and occupants shall be jointly and severally responsible for performance of the duties and obligations prescribed in this Ordinance. No owner or occupant shall be relieved from any such duty or obligation because another person is also responsible for performance of such duty or obligation. No owner or occupant shall be relieved from liability under this Ordinance because said person has contracted said responsibility to an operator or other person.

(6) PROPERTY MAINTENANCE RESPONSIBILITIES OF OWNERS, OPERATORS AND OCCUPANTS.

Every owner, operator and occupant who has assumed responsibility for maintaining the property pursuant to a written lease shall improve and maintain all property under his or her control so as to comply with the following minimum requirements:

- (a) All exterior areas of the property shall be graded to divert water away from all buildings.
- (b) The interior of all vacant buildings and structures and all exterior areas of all property shall be maintained in a safe and sanitary condition, free from accumulation of debris, rubbish, garbage, physical hazards, rodent and varmint harborages and infestations, and animal feces. All animal feces shall be removed within 24 hours.
- (c) Fences, structures, walks, driveways, parking areas and similar paved areas shall be properly maintained in a safe condition.
- (d) The exterior surfaces of all buildings and structures not inherently resistant to or chemically treated to prevent deterioration shall be treated with a protective coating of paint or other suitable preservative which will provide adequate resistance to weathering.
- (e) Every interior floor, wall and ceiling including door and window assemblies shall be kept in good repair and shall be capable of affording privacy from public view.
- (f) Every inside and outside stair, porch, platform, balcony and appurtenance thereto shall be maintained in good repair, safe to use and capable of supporting the load that normal use may cause to be placed thereon.
- (g) Every plumbing fixture and water and waste pipe shall be maintained in good repair and free from defects, leaks and obstructions.
- (h) Every water closet compartment floor surface and bathroom floor surface shall be maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a sanitary condition.
- (i) No owner shall allow an accumulation of rocks, trees, stumps, waste building material or other debris on the property; except such debris resulting from land development, building construction, street grading, or installation of underground utilities may remain on the property for a period of not more than 10 days, unless a valid building permit has been issued, in which case such accumulation be disposed of as set forth in the building permit.
- (j) All private storm sewers and building storm sewers shall be properly installed and maintained in good repair, free from defects, leaks and obstructions.
- (k) All rain gutters, downspouts, including extensions, and the discharge systems for sump pumps shall be maintained in good repair and shall minimize the effect of runoff onto adjacent properties.
- (l) All structures shall be constructed and maintained so that the exterior is reasonably weathertight and inaccessible to rodents, vermin and insects.
- (m) The exterior of all property shall be maintained in a reasonably litter-free condition. All litter that is subject to movement by the elements shall be promptly removed so as to reasonably prevent it being blown onto other property by the elements.

CHAPTER 11 – PUBLIC NUISANCES

TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

(7) PAVED DRIVEWAYS.

All driveways on **properties** in a residential district shall be paved with concrete, asphalt, brick, pervious paver or a similar surface within one year of:

- (a) Construction;
- (b) Remodeling or expansion of the garage so as to require a building permit; or
- (c) Expansion of the driveway.

~~(6)~~(8) VACANT AND DAMAGED BUILDINGS.

(a) Vacant buildings.

Requirement to secure vacant buildings. Any building which is vacant and unsecured for any reason constitutes a public nuisance. No owner, operator or occupant may maintain or permit a public nuisance within the Town. The owner shall abate the nuisance by securing the building, including any shed or outbuilding, against entry by persons or animals. This may include, with prior written approval of the Town -Clerk or Building Inspector, adequately boarding up doors, windows and other openings in a workmanlike manner so as to prevent entry, vandalism or damage. Trespassers, garbage, animals, animal nests and animal nesting materials shall be removed prior to securing the building.

(b) Other requirements. The owner of a vacant building shall ensure that the following requirements are met with respect to the vacant building:

- i. The utilities, plumbing, electrical and heating systems shall be maintained at all times in a safe condition, inactivated or drained so as to prevent the possibility of damage to the structure by the failure of such utilities and so as to prevent hazardous and dangerous conditions.
- ii. At least one door boarded at the grade level shall be maintained with locks and hinges to permit entry for inspection purposes.
- iii. Access to the building for inspection purposes is required to be provided to the Town Clerk or Building Inspector.
- iv. Screening or alternate methods of boarding may be permitted upon prior written approval by the Town Clerk or Building Inspector.
- v. The Town Clerk or Building Inspector shall be notified in writing no later than 10 days prior to the sale, transfer of possession, or the unboarding of the **property**.

(c) Damaged buildings. When any building has been damaged by fire or other cause, such that hazardous or dangerous conditions exist, and the building cannot be secured by conventional locking or boarding up of windows and doors, such building shall be fenced off so as to prevent access and entry to the structure and the area immediately surrounding the structure.

Formatted: No bullets or numbering, Tab stops: 0.5", Left + Not at 1"

Formatted: Indent: Left: 0.5", Hanging: 0.38", Don't add space between paragraphs of the same style, Widow/Orphan control

~~(7)(9)~~ OUTDOOR STORAGE.

No owner, operator or occupant of property in a residential district shall store or accumulate outdoors on such property any of the following items unless such property is expressly zoned to permit such storage or accumulation:

(a) Vehicles. No owner, operator or occupant shall store outdoors any vehicle in the street yard of any property in any residential district, except as follows:

1. The number of vehicles in the street yard does not exceed the following number:
 - i. For properties on which three or more dwelling units exist, the number of vehicles shall not exceed the number of parking spaces provided on the site.
 - ii. For purposes of this subsection, one or two vehicles on a single trailer designed for the transportation of those vehicles shall be considered one vehicle.
2. All such vehicle(s) shall comply with all of the following:
 - i. They are parked with all points of contact on a surface preventing the item(s) from sinking into the ground, with no part extending over a public sidewalk or public street.
 - ii. They are owned by and lawfully registered to at least one of the residents of the dwelling unit, with the exception of temporary guests staying at the dwelling unit.
 - iii. They remain at that location without being moved for no longer than nine consecutive months.
 - iv. They are lawfully licensed and properly display license plates and current registration.
 - v. They are in operating condition, except vehicles which are actively being repaired.
 - vi. They are not used for dwelling purposes, except for overnight sleeping for a maximum of 14 days in any one calendar year.
 - vii. They are not connected to sewer lines, waterlines, except temporary electrical connections for charging batteries.
 - viii. They are not used to store goods, materials or equipment other than those items considered to be part of the unit or essential for its immediate use.
3. Except as provided in Ssubsection 4(a)1. i. or ii. Above, all vehicles shall be stored inside a garage or outside in the back yard or side yard of the property. Vehicles

CHAPTER 11 – PUBLIC NUISANCES

TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

may be stored on the side yard of a property and shall be parked with all points of contact on a surface preventing the item(s) from sinking into the ground, with no part extending over a public sidewalk or a public street.

4. Notwithstanding any other provision in this subsection, no owner, operator or occupant of property in a residential district shall park or store outdoors on such property any semitractor or semitrailer for a period longer than 24 consecutive hours.

(b) Nonvehicular items. No owner, operator or occupant shall store outdoors any nonvehicular personal property in the street yard of any property in a residential district for a period longer than seven days, except as follows:

1. Items may be stored in not more than two storage containers, each no greater than 75 gallons in size, which possess four complete sides and a lid, all of which are opaque.

2. Items may be placed within a closed and locked temporary storage container (commonly referred to as a "POD®") located on the driveway of the dwelling unit and which does not encroach on the sidewalk or public street. No such storage container shall be located on a property for more than 90 days in any twelve-month period.

~~1-3.~~ Equipment and construction material necessary for construction being performed upon the property may be stored on the property for the duration of a building permit issued by the Town, if one is issued, otherwise for a period not to exceed 60 days.

~~2-4.~~ All construction debris and trash shall be placed within a dumpster or other suitable container. Only one such dumpster or container shall be located on the property at one time and shall be promptly removed upon completion of the construction or renovation project, but in no case longer than 90 days, unless extended by the Town Clerk or Building Inspector for good cause.

~~(8)~~(10) MAINTENANCE AND APPEARANCE OF LAND.

Lawn, hedges, bushes and plantings shall be kept trimmed and shall not be allowed to become overgrown and unsightly or allowed to obstruct pedestrians' or vehicles' view.

~~(9)~~(11) ADMINISTRATIVE PROVISIONS.

(a) The ~~Town Board Clerk or its designated representative~~ **Building Inspector** is hereby made responsible for the enforcement of this Ordinance. All inspections, enforcement, orders or matters relating to violations of this Ordinance shall be under their direction and supervision. ~~They~~ **The Town Chairperson** may ~~request~~ **authorize** other public officials or employees of the Town to perform duties as they deem necessary to the enforcement.

(b) ~~The Town or its designated representative is authorized to make inspections of the exterior of any premises for the sole purpose of determining whether the premises conform to the~~

Commented [WSC2]: I recommend against making the governing body responsible for enforcement. It opens the door to criticism that an enforcement or nonenforcement decision is influenced by political considerations. It puts elected officials in a position of having to take unpopular actions and, often, to side with one neighbor over another. It is certainly appropriate for the Board to set general policy parameters on enforcement. But better to have staff responsible for specific individual actions.

Commented [WSC3]: An inspection warrant is necessary to enter upon private property

~~requirements of this Ordinance.~~ Town residents may register complaints of violations of this Ordinance to the Town Clerk, in writing, in person, by email or by telephone.

(c) ~~Any designated representative of the Town~~**The Town Building Inspector Board** shall be supplied with official identification and shall exhibit such identification to the owner, operator or occupant upon request.

(d) Any person in violation of any provision of this Ordinance shall be subject to the enforcement procedures set forth in s. TCG § 11.10.

~~(10)(12)~~ EFFECTIVE DATE.

(a) The original ordinance was adopted on May 7, 2012 and amended on January 8, 2018.

(b) This section shall take effect upon passage and publication.

11.10 ENFORCEMENT AND PENALTIES

Any property owner or other individual found to be in violation of any provision of ~~s. TCG §§ 11.01, 11.06 or 11.09~~ Chapter 11 is subject to the following enforcement procedure and penalties:~~preliminary NOTICE OF COMPLAINT.~~

~~If, upon receipt of a verified complaint, the Town Board or its designated representative determines that there are grounds to believe that there has been a violation of any provisions of s. TCG §§ 11.01, 11.06 or 11.09, notice of the violation(s) shall be given to the owner(s). The preliminary notice shall:~~

~~Be in writing;~~

~~Indicate the nature of the alleged violation(s);~~

~~Indicate the time for correction or abatement of the alleged violation(s);~~

~~notice of violation.~~

~~If the property owner or individual does not correct or abate the alleged violation(s) within the timeline set forth in the Preliminary Notice of Complaint, the Town Board shall designate an individual(s) to perform an inspection of the premises. If, the designated representative(s) of the Town Board, upon inspection of the premises, determines there is a violation of TCG §§ 11.01, 11.06 or 11.09, the designated representative(s) of the Town Board shall instruct the Clerk to send a Notice of Violation. The notice of violation shall:~~

~~Be in writing;~~

~~Indicate the nature of the alleged violation(s);~~

~~Indicate the time for the correction or abatement of the alleged violation(s) and/or submission of a plan to correct the alleged violation(s), which time shall not be less than 20 days nor more than 40 days;~~

~~Be served upon the owner in the following manner:~~

~~Given to the owner by a law enforcement officer; or~~

~~Sent by U.S. mail or by a commercial delivery service to the owner's last known address, as said address appears on the tax rolls. A tracking mail receipt and an affidavit of mailing shall be sufficient evidence of service, which service shall be deemed effective within five business days of the date of mailing.~~

CHAPTER 11 – PUBLIC NUISANCES

TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

Advise the owner of the owner's right to request a hearing before the Town Board and further advise the owner that the owner's failure to make such a request shall result in the notice of violation being deemed an order of violation.

(1) PLACARD ON BUILDING.

~~(a)~~

~~(b)~~ cause to be placed upon a building, structure or premises a "red tag" placard, which shall provide notice of the violation(s), whenever all of the following occur:

~~(c)~~ Any building, structure or premise does not substantially comply with the requirements of this Ordinance; and

~~(d)~~ Notice of the violation(s) involved has been served upon the owner as provided for in section (2) above; and

~~(e)~~ The owner has failed to timely correct, or timely provide a satisfactory plan to correct, the violation(s) set forth in said notice; and

~~(f)~~ The designated representative(s) of the Town Board has determined that the building, structure, or premises are so damaged, decayed, dilapidated, unsafe or vermin infested that it creates a serious hazard to the health or safety of the occupants or of the public, and is therefore unfit for use of occupancy.

~~(g)~~ The form of the "red tag" placard shall be determined by the designated representative(s) of the Town Board and shall substantially state the specific violation(s) of this Ordinance.

~~(h)(a)~~ If the designated representative(s) of the Town Building Inspector determines that the building, structure, or premises are unsanitary, unsafe, or unfit for human habitation the owner is notified of a violation of s. TCG § 11.09, the representative Town Building Inspector or a law enforcement officer shall post a placard on the premises containing the following notice: "This Building May Not Be Used For Human Habitation, Occupancy or Use." Thereafter, no person shall use the building, structure or premises for human habitation, occupancy or use until necessary repairs have been made.

~~(i)(b)~~ No person shall deface or remove the "red tag" placard above described notice from any building, structure or premise until removal of such placard is authorized by the designated representative(s) of the Town Building Inspector Board.

(2) NONCOMPLIANCE – REMEDY OF DEFECTS; ABATEMENT.

~~(a)~~

~~(a)~~ Summary abatement. The owner of the premises shall have the time specified in the notice of violation to remedy the violation(s).

1. Notice to owner. If the designated representative(s) of the Town Town Clerk or Building Inspector determines that a public nuisance exists within the Town and that there is a great and immediate danger to the public health, safety, peace, morals or decency, he or she shall immediately report such determination to the Town Chairperson Clerk, and 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. Notice may be served by the Town Clerk or Town Building Inspector or a

Commented [WSC4]: I recommend against setting forth in the ordinance a specific pre-citation procedure. It limits your options to deal with urgent matters and requires that any change be made by passage of a new ordinance. Lastly, it opens the door to defendant's arguing these are jurisdictional prerequisites to issuance of a citation and if there is any defect the proceeding must be dismissed. Better to have an informal policy that is not mandatory and can be quickly modified as necessary.

Commented [WSC5]: Language modified to conform with state statute.

CHAPTER 11 – PUBLIC NUISANCES

Dane County Sheriff's authorized deputy on the person causing, maintaining or permitting such nuisance or on the owner or occupant of the premises where such nuisance is caused, maintained or permitted, and a copy of such notice shall be posted on the premises. Such notice shall direct the person causing, maintaining or permitting such nuisance or the owner or occupant of the premises to abate or remove such nuisance within a period not less than 24 hours or greater than seven days 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, maintaining or permitting the nuisance, as the case may be.

2. Abatement by the 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 Town Building Inspector shall cause the abatement or removal of such public nuisance.

(b) Nonsummary abatement.

1. Order to abate nuisance. If the designated representative(s) of the Town Clerk or Building Inspector determines that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten imminent danger to the public health, safety, peace, morals or decency, he/she shall issue an order reciting the existence of a public nuisance and requiring the owner or occupant of the premises to remove or abate the condition described in the order within the time period specified therein. The order shall be served personally on the owner of the building as well as the occupant, if different from the owner and applicable to the described nuisance, or at the option of the Town Clerk or Building Inspector, the notice may be mailed to the last known address of the person to be served by registered mail with return receipt. If the owner or the occupant cannot be served, the order may be served by posting it on the main entrance of the premises and by publishing as a class 3 notice under Ch. 985, Wis. Stats. The time limit specified in the order runs from the date of service or publication.

2. Abatement by the Town. If the owner or occupant fails or refuses to comply within the time period prescribed, the Town Building Inspector shall enter upon the premises and cause the nuisance to be removed or abated, and the Town shall recover the expenses incurred thereby from the owner or occupant of the premises or from the person who has caused or permitted the nuisance.

3. Remedy from order. Any person affected by such order shall, within 30 days of service or publication of the order, apply to the circuit court for an order restraining the Town and the Town Building Inspector 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.

(a) The Town Board or their designated representative(s) shall have the ability to extend the time for corrections if the circumstances warrant an extension and the owner is making a good faith effort to correct the violation(s).

(a) Other methods not excluded. Nothing in this section 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 or under any other provision of this Code applicable to a particular type of nuisance. No action taken to abate a nuisance shall preclude an action seeking a forfeiture as provided in s.

CHAPTER 11 – PUBLIC NUISANCES

TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

TCG § 25.04. An action may be commenced by citation issued by the Town Building Inspector or Dane County Sheriff's Department.

~~(a)(b)~~ Court order. Except where necessary under subsection (b), no officer hereunder shall use force to obtain access to private premises to abate a public nuisance, but shall request permission to enter upon private premises if such premises are occupied and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance. If the owner of the premises, after notice of violation and order, fails or refuses to timely remedy the violation(s), then the Town Board, at its sole option, may cause such work to be done. Prior to commencing such work, the Town Clerk shall provide notice to the owner that the Town will abate the violation(s). This notice shall include:

~~An estimate of the approximate dates and times during which abatement will occur.
The approximate cost for any such work done, including reasonable costs for administration, inspection and legal fees (collectively, "costs of abatement")~~ Following such notice, the owner shall give the persons designated by the Town full access to the land and the exterior of the buildings and structures to abate the violation(s). Failure of an owner to permit such access shall constitute a violation of this Ordinance, and may also result in the Town obtaining an injunction from Dane County Circuit Court. Reasonable costs of obtaining the injunction (including legal fees) shall be added to the costs of abatement and notice of the additional costs shall be provided to the owner.

~~If the owner fails to pay the costs of abatement within 30 days of the notice from the Town Clerk, interest shall accrue against the balance due at the rate of 1% per month and the total balance due shall become a lien against real estate on the next tax roll in accordance with law.~~

(3) PENALTIES.

(a) A violation of any ~~provision~~~~section or subsection of s. TCG Chapter 11 §§ 11.01, 11.06 or 11.09~~ shall be punishable as a Class D forfeiture under s. TCG § 25.04, plus reasonable costs of inspection and prosecution.

(b) Each day a violation exists after the notice of violation shall constitute a separate violation of this Ordinance.

(c) Penalties set forth in this section shall be in addition to all other remedies of injunction, abatement or costs whether existing under this Ordinance or otherwise.

(4) SEVERABILITY.

If any section, subsection, paragraph, clause, sentence, phrase or word contained in this Ordinance is declared invalid, the remaining portions of the Ordinance shall remain in full force and effect.