

**CHAPTER 17
PUBLIC NUISANCES**

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17.01 PUBLIC NUISANCES PROHIBITED

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

17.02 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) Greatly offend the public morals or decency.
- (d) Unlawfully or substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway or other public way or the use of public property.

(2) Public Nuisance Affecting Health. The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of Section 17.02 (1) of this Code.

- (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 limber, 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 septic tanks abutting any street, avenue or public alley, or way, along which the City maintains a sewer line and water main, or upon any lot accessible thereto.

(f) Any building to be occupied by one or more persons which does not provide and maintain for the use of such occupants adequate water closets connected with the City sewer so as to empty the contents thereof into said sewer, or which does not provide a sanitary surface privy built according to plans and specifications approved by the local Health Officer or Board of Health.

(g) Any surface privy or dry closet located on any lot or premises within the City of Wisconsin Dells which has been built without a permit therefor from the Health Officer or Board of Health.

(h) All excavations, basements or other holes of any type, upon property in the City of Wisconsin Dells which are more than 2 feet deep and 2 feet wide and which remain uncovered for a period of more than 30 days, unless the owner or occupant of said property shall have obtained a permit to maintain such premises in such condition from the Common Council.

(i) Privy vaults and garbage cans which are not fly tight.

(j) All noxious weeds and other rank growth of vegetation.

(k) All dogs running at large.

(l) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the City limits or within 1 mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the City of Wisconsin Dells.

(m) 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.

(n) Any use of property, substances or things within the City of Wisconsin Dells 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 City.

(o) All abandoned wells not securely covered or secured from public use.

(p) 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 Section 17.02(1) of this Code.

(a) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purposes of prostitution, promiscuous sexual intercourse 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 of Wisconsin Dells.

(d) Any place or premises within the City of Wisconsin Dells where City ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

(e) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinances of the City.

(4) Public Nuisances Affecting Order and Safety. The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting order and safety, but such enumeration shall not be construed to exclude other nuisances affecting public order or safety coming within the provisions of this subsection.

(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 fire limits of the City of Wisconsin Dells 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 14 feet above the surface of a public sidewalk or street or less than 10 feet above any other public place.

(f) All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the City.

(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 15 feet above the surface thereof.

(i) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the City.

(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 or iceboxes 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 on sidewalks not removed or sprinkled with ashes, sawdust or sand.

(p) Strobe lights or similar bright, flashing illuminating devices visible from the public way.

(5) Public Nuisances Affecting Peace and Quiet. The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and quiet, but such enumeration shall not be construed to exclude other nuisances affecting public peace and quiet coming within the provisions of this subsection:

(a) The making or assisting in making any noise which shall unreasonably disturb the peace and quiet of persons located 100 or more feet from the point of origin of that noise unless the making and continuing of the same cannot be prevented and is necessary for the protection and preservation of property or of the health, safety, life or limb of some person.

(b) Causing, suffering or allowing any loud, excessive or unusual noise in the operation or use of any radio, phonograph or other mechanical or electrical device, instrument or machine, which loud, excessive or unusual noise shall disturb the comfort, quiet or repose of persons therein or in the vicinity.

(c) The operating or causing to be used or operated in or upon any public street, or from any aircraft, any device, apparatus or instrument for the amplification of human voice or any sound or noise, or other sound making or reproducing device. It is provided, however, that such restrictions shall not apply to churches broadcasting or reproducing music by sound reproducing devices on Sundays or religious holidays, or to the reproduction of sounds of any nature produced incidental to the operation of any governmental function or to the production of sounds of any nature produced incidental to the operation of any authorized emergency vehicle or to the use of sound producing equipment authorized pursuant to Wisconsin Statutes or to the use of sound producing equipment used incidental to any street use or parade permit. The City Clerk-Treasurer may issue permits to individuals wishing to broadcast music between December 1 and December 25, which permit shall authorize the permittee to broadcast music under the restrictions, and in the times and manners authorized by said permit. No person, firm or corporation shall make or cause to be made for the purpose of advertising or announcing his vocation or presence, or in connection with the buying or selling of any goods, wares, merchandise, services or any thing whatsoever, or with the carrying on of any trade, occupation, vocation or profit

making activity, an immediate or excessive use of the voice, or of any bell, gong, horn, instrument, article or device. The violation of this section in connection with any license or permit shall be cause for the revocation thereof.

(d) The operating, having charge of, or occupying any building or premises upon which is kept or allowed to be kept any animal or bird which habitually by any noise disturbs the peace and quiet of any person in the vicinity thereof.

(e) The parking or leaving standing for more than 15 minutes within the limits of the City of Wisconsin Dells a vehicle containing livestock, live fowl or other living animals excepting exhibits authorized by permit issued by the City Clerk-Treasurer.

(f) For outdoor entertainment, which includes but is not limited to live music, disc jockeys, and karaoke machines, located in the C2 and PDD Districts, a written request outlining the date, time, location and type of entertainment must be submitted to the Chief of Police for prior approval. If approved, the Police Department reserves the right regulate the loudness should circumstances warrant it. This section excludes events already approved under a Special Events Permit.

17.03 CONTROL OF INVASIVE SPECIES TREE PESTS

(1) Definitions. As used in this section:

Disease. Either an infection of infestation by a microorganism.

Infestation. A tree that has been overrun by pests as determined by either the Wisconsin Department of Agriculture Trade and Consumer Protection or the Wisconsin Department of Natural Resources; and is causing economic or environmental harm to trees in Wisconsin.

Invasive Species. Any invertebrate animal, plant pathogen, parasitic plant or similar or allied organism which can cause a tree to be diseased and/or infested and is determined by either the Wisconsin Department of Agriculture Trade and Consumer Protection or the Wisconsin Department of Natural Resources to be a pest causing economic or environmental harm to trees in Wisconsin.

Infection. A tree that is:

- (A) Contaminated with pathogenic microorganisms;
- (B) Being parasitized;
- (C) A host or carrier of an infectious, transmissible, or contagious pest;
- (D) So exposed to a tree list in clause (A), (B), or (C) that one of those conditions could reasonably be expected to exist and the tree may pose a risk of contamination to other trees or the environment.

Pest. Any living agent capable of reproducing itself that causes or may potentially cause economic or environmental harm to trees through infection and/or infestation.

Tree. Deciduous and coniferous trees.

(2) Public Nuisance Declared. The Common Council having determined that the health of the trees within the City of Wisconsin Dells is threatened has declared the following things public nuisances whenever they may be found within the city:

(a) Any living or standing tree or part thereof infected to any degree by disease or infested with any invasive species or pest.

(b) Any dead tree or part thereof, including logs, branches, stumps, firewood or removed and burned or sprayed with an effective insecticide or pesticide.

(3) Nuisance Prohibited. No person, firm or corporation shall permit any public nuisance as defined in Section 17.05 (2) of this Code to remain on any premises owned or controlled by him within the City of Wisconsin Dells.

(4) Inspection. The City Forester shall inspect or cause to be inspected all premises and places within the City as often as possible to determine whether any public nuisance as defined in Section 17.0 3(1) of this Code exists thereon and shall also inspect or cause to be inspected any ~~elm~~ tree reported or suspected of an infection or infestation by an invasive species tree pest or any tree material reported or suspected of an infection or infestation by an invasive species tree pest.

(5) Abatement of Nuisances.

(a) Abatement on Public Property. If the City Forester upon inspection and examination shall determine that any public nuisance as herein defined exists in or upon any public street, alley, park or other public place, including the terrace strip between curb and lot line, within the City of Wisconsin Dells and that the danger to other trees within the City is imminent, it shall immediately cause the nuisance to be removed or otherwise abate the same in such manner as to destroy or prevent as fully as possible the spread of disease, infection or invasive species tree pests. Such abatement procedures shall be carried out in accordance with the current technical and expert methods and plans as designated by the Wisconsin Department of Agricultural Trade and Consumer Protection and the Wisconsin Department of Natural Resources.

(b) Abatement on Private Property. If the City Forester shall determine with reasonable certainty that any public nuisance as herein defined exists in or upon private premises and that the danger to other trees within the City is imminent, it shall immediately serve upon the owner of such property, if found, or upon the occupant thereof, a written notice to abate such nuisance within two weeks of the service of said notice. If such owner or occupant does not abate said nuisance within the time limited or give reasonable assurance that the nuisance will be abated within 30 days at the owner's or occupant's own cost, the City Forester

shall cause the same to be abated. No damage shall be awarded to the owner for the destruction of any tree, or tree material thereof pursuant to the section.

(c) Diagnosis by Wisconsin Department of Agriculture. If the City Forester is unable to determine with reasonable certainty whether or not a tree in or upon private premises is infected with an invasive species, it shall forward specimens from said tree for diagnosis and report to the Wisconsin Department of Agriculture Trade and Consumer Protection at Madison, Wisconsin, and shall proceed as provided in Section 17.03(4)(b) of this Code upon receipt of a positive report from the Department.

(6) Assessment of Cost of Abatement and Spraying.

(a) Property Charged. The entire cost of abating any public nuisance as defined in Section 17.03(1) of this Code which is located on private property shall be chargeable to and assessed against the parcel or lot abutting on the street, alley, boulevard or parkway upon or in which such tree is located or the parcel or lot upon which such tree stands, except where said tree is located on the terrace between the sidewalk and the street, alley, boulevard or parkway, in which case the owner of the said abutting lot shall be charged an amount equal to one half of abating the nuisance, with the balance of the cost being borne by the City. The cost of abating any such nuisance which is located in or upon any park or public ground shall be borne by the City.

(1) Replacement. The city forester shall determine if any tree having been abated on any property described in 17.03(6)(s) shall be replaced. If it is so determined that the tree will be replaced it will be replaced with a species approved by the city forester. If the abated tree to be replaced lies on the terrace between the sidewalk and the street, alley, boulevard or parkway, in which case the owner of the said abutting lot shall be charged an amount equal to one-half the cost of replacement with the balance of the cost being borne by the city.

(b) Records and Collection. The City Forester shall keep strict account of the costs of work done under this Section and shall report monthly to the City Clerk-Treasurer all work done for which assessments are to be made, stating and certifying the description of the land, lots, parts of lots or parcels of land and the amounts chargeable to each. The City Clerk-Treasurer shall include in ~~his~~ a report to the Common Council the aggregate amounts chargeable to each lot or parcel so reported to him, and such amounts shall be levied and assessed against said parcels or lots in the same manner as other special taxes.

(7) Interference with City Forester Prohibited. No person, firm or corporation shall prevent, delay or interfere with the City Forester or any of his agents or employees while they are engaged in the performance of the duties imposed by this Section.

17.04 VEHICLES -- NUISANCES -- REPAIR WORK

(1) Purpose. The purpose of this ordinance is to prevent blight, to secure healthy and humane living conditions, to protect the integrity of investments in real property, to prevent the decline of real estate values, to improve aesthetics and to protect the public health, safety and welfare. In order to secure this goal, activities contrary to this ordinance are deemed to constitute a matter of public concern which must be regulated or prescribed through the exercise of the City's police powers.

(2) Definitions.

(a) Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a highway.

(b) Nuisance Vehicle shall include any abandoned, inoperable, unlicensed, unroadworthy, disassembled or wrecked vehicle. A vehicle for which a license has been applied for shall be herein deemed a licensed vehicle if proof of application is prominently displayed on the front windshield. For purposes of this Section, "abandoned vehicle" means a vehicle left unattended without the permission of the property owner on which the unit is situated.

(c) Repair Work shall include mechanical, electrical and body work, maintenance, construction, reconstruction, assembly, disassembly, restoration, painting, upholstering or any similar or related work performed on any vehicle.

(d) Street Repairs shall mean "temporary repair work" performed on a vehicle in a manner and place which will not create a danger or hazard to vehicular or pedestrian traffic.

(e) Temporary Repair Work shall mean repair work which is performed within twenty-four (24) hours of a vehicle becoming unexpectedly unroadworthy on a street, highway or thoroughfare, which work will make or attempts to make said motor vehicle roadworthy.

(3) Prohibition. It shall be unlawful for any person, party, firm or corporation to keep, place or store any "nuisance vehicle" or to perform "repair work" or "street repairs" upon any public thoroughfare, street or highway or upon any private or public property within the City in a manner inconsistent with this Ordinance.

(4) Repair Work--Limitations. "Repair work" may be performed upon observance of the following conditions and restrictions:

(a) "Repair work" upon residentially zoned private property cannot be performed for financial gain or profit obtained through fees, barter, charges or appreciation in the value of a vehicle purchased for the purpose of resale. "Repair work" upon other than residentially zoned property shall be in accordance with the

City zoning ordinances and in compliance with applicable State and City laws, rules and regulations, licenses and permits.

(b) Except for authorized street repairs, "repair work" which renders a vehicle inoperable for a period of more than three (3) working days, must be performed in a garage or enclosed structure or fenced in area which screens repair work from the view of the owners, users and occupiers of abutting and neighboring properties and from the view of passersby using public thoroughfares, streets and highways.

(c) "Street repairs" may be performed only within the scope of the definition thereof.

(5) Nuisance Vehicles--Removal.

(a) Authority to Tow. Subject to the procedures hereinafter set forth, nuisance vehicles may be towed and stored by the Police Department, at the cost and expense of the owner thereof. Unclaimed towed vehicles may be disposed of by towers through means and procedure authorized by law.

(b) Notice of Intent to Tow--Private Property. The owner of a nuisance vehicle which is upon private property shall be notified of a violation of this ordinance, and provided with ten (10) full calendar days to repair, assemble, make the vehicle operable and roadworthy and license any vehicle which may not be licensed or in the alternative place such vehicle in a garage or enclosed structure, or place such vehicle within a duly authorized and licensed sales, repair or salvage business lawfully operating within a properly zoned area and in compliance with all State and local laws, rules, regulations, licenses and permits.

(c) Notice of Intent to Tow--Public Property and Rights-of Way. The owner of a nuisance vehicle which is upon public property or rights-of-way shall be notified of a violation of this ordinance and provided with twenty-four (24) hours to repair, assemble, make the vehicle operable and roadworthy and license any vehicle which may not be licensed or in the alternative place such vehicle in a garage or enclosed structure or place such vehicle within a duly authorized and licensed sales, repair or salvage business lawfully operating within a properly zoned area and in compliance with all State and local laws, rules, regulations, licenses and permits.

(d) Service of Notice of Intent to Tow--Computation of Time--Private Property. If the owner of a nuisance vehicle, which is upon private property, can be reasonably determined, service of the notice of intent to tow shall be attempted thereon, by personal service, verified by an affidavit of service or by registered or certified mail with return receipt, and, in addition thereto, a stick-on or otherwise waterproofed and fastened notice of intent to tow shall be posted on the nuisance

vehicle, which notice shall be deemed adequate notice in the event there is no service of notice of intent to tow by personal service or return receipt from registered or certified mail. The ten (10) day time limit provided to procure voluntary compliance with the ordinance shall commence to run the date after the nuisance vehicle is posted.

(e) Service of Notice of Intent to Tow--Computation of Time--Public Property, Streets, Alleys and Rights-of-Way. If the owner of a nuisance vehicle which vehicle is upon any public property, street, alley or right-of-way can be reasonably determined, said owner shall be given oral and/or written notice of intent to tow and in addition thereto, a stick-on or otherwise waterproofed and fastened notice of intent to tow provided to the nuisance vehicle owner. The twenty-four (24) hour time limit provided to procure voluntary compliance with this ordinance shall commence to run at such time as the nuisance vehicle is posted.

(f) Extensions of Time. The Police Department, for good cause, upon the nuisance vehicle owner's request, may grant a reasonable extension of any time limit imposed herein to enable a nuisance vehicle owner to voluntarily comply with this ordinance.

(g) Other Ordinances and Laws. A nuisance vehicle may be towed under authority of any other ordinance or law pursuant to procedures therein specified, where a tow is authorized by another ordinance or law for reason other than a violation of this ordinance.

(h) Non-tolling of Period of Time Provided to Comply with this Ordinance. The period of time with which an owner of a nuisance vehicle is provided hereunder to comply with this ordinance in order to avoid a tow, shall not be tolled by the fact of a temporary removal of said vehicle from the place where upon the violation of this ordinance was noticed to occur under circumstances where the vehicle continues to be a nuisance vehicle.

(i) Sanction for Non-Compliance. The owner of a nuisance vehicle who fails, in a timely manner, to comply with this ordinance shall be subject to have their nuisance vehicle towed and stored at their expense and shall, upon conviction thereof, forfeit not less than \$100.00 nor more than \$300.00, together with the costs of prosecution; and, in default of payment of the forfeiture and costs of prosecution shall be imprisoned in the county jail until the forfeiture and costs are paid, but not exceeding ninety (90) days.

(j) Hearing. The notice of intent to tow shall provide the owner of a nuisance vehicle with an opportunity to request a hearing before a designee of the Police Chief to enforce this ordinance, where a hearing is requested within the time provided for ordinance compliance in the notice, no action shall be taken to tow the vehicle or issue a citation hereunder until the hearing is held. However, said owner may be required to appear for a hearing to be scheduled within twenty-four (24) hours of the request. The

failure of the owner to appear at a scheduled hearing shall constitute a waiver of said right to a hearing. Hearings may be conducted over the telephone at the request of or with the consent of the nuisance vehicle owner. The purpose of a hearing hereunder is to permit the nuisance vehicle owner to show that the nuisance vehicle sought to be towed is not, in fact, a nuisance vehicle which is subject to tow here under. The person conducting said hearing, which shall be informal, shall note in writing the facts presented and position of the nuisance vehicle owner, shall mark and retain exhibits and shall determine, in writing, whether or not this Ordinance has been violated. If this Ordinance has been determined by said person to have been violated, the nuisance vehicle owner shall be notified of a compliance date, which shall be reasonable under all of the circumstances.

(k) Appeal. Appeal shall be as hereinafter provided, the City electing not to be governed by Wisconsin Statutes, Chapter 68. An aggrieved party desiring to appeal from a hearing determination ;under subsection (j), may file a written Notice of Appeal which must be received by the Police Department prior to the expiration of the time for compliance with this Ordinance provided for in the Notice of Intent to Tow. The Notice of Appeal shall state the error alleged in the initial decision and shall provide the address and phone number of the appellant. The appeal shall be heard by the Common Council of the City of Wisconsin Dells. The review shall be upon the record and a written determination affirming or denying the initial decision maker shall be made. No vehicles shall be towed until the appeal process is completed, and then only where the decision of the initial decision maker finding a violation of the Ordinance is upheld, and only after the appellant has been notified of the appeal decision and given at least twenty-four (24) hours to comply with the Ordinance. Further appeal would be by Writ of Certiorari to the Circuit Court.

(l) Notice of Towing. Where a nuisance vehicle is towed hereunder and where the owner and owner's address of the towed vehicle is known or reasonably ascertainable to the person who authorized the tow, said owner shall be provided notice, either personally or by regular mail, that the vehicle has been towed by a certain tower to a certain location. The owner shall be provided with tower's phone number and advised that the vehicle should be claimed therefrom, upon payment of the appropriate towing and storage charges, as soon as possible, for daily storage charges are accumulating. The notice shall also indicate that the vehicle may be disposed of by the tower, to recoup such charges, in a manner and through a procedure authorized by law.

(m) Agreement to Defend, Indemnify and Hold Harmless. The City will defend or pay for the defense of any towing under this Ordinance and will indemnify and hold harmless any tower under this Ordinance from any loss, damages, costs or expenses which they may sustain, incur or be required to pay should any person or party make claim or commence a lawsuit against any such tower where the basis for the claim or lawsuit is an allegation that this Ordinance is unconstitutional on its face or in its application. A prerequisite for the above City

obligation is written notice by a tower of a claim or lawsuit to the City Clerk within five (5) days of the receipt thereof, and a tender of the defense thereof to the City.

17.05 ABATEMENT OF PUBLIC NUISANCES

(1) Inspection of Premises. Whenever complaint is made to any City officer that a public nuisance exists within the City of Wisconsin Dells, he shall promptly notify the Director of Public Works, the Health Officer or the Building Inspector who shall forthwith inspect or cause to be inspected the premises complained of and shall make a written report of his findings to the Mayor. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Mayor.

(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 Chief of Police 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 a private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the health, safety, peace, morals or decency, he shall file a written report of his findings with the Mayor who shall cause an action to abate such nuisance to be commenced in the name of the City or Circuit Court in accordance with the provisions of Chapter 280 of the Wisconsin Statutes.

(4) Abatement Under Section 66.05, Wisconsin Statutes. The City of Wisconsin Dells shall exercise the authority designated in Section 66.05 of the Wisconsin Statutes and the Director of Public Works is hereby designated and authorized to commence such actions in the name of the City of Wisconsin Dells.

(5) Other Methods Not Excluded. Nothing in this Section shall be construed as prohibiting the abatement of public nuisances by the City of Wisconsin Dells or its officials in

accordance with the laws of the State of Wisconsin.

17.06 COST OF ABATEMENT

In addition to any other penalty imposed by this Section for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the City shall collect the cost of abating said nuisance 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 costs shall be assessed against the real estate as a special charge.

17.07 GRAFFITI

(1) Graffiti Vandalism Prohibited

(a) No person may mark, draw or write with paint, ink, or another substance on or intentionally etch into the physical property of another without the other person's consent.

(b) Penalty. Any person convicted of violating this section shall forfeit not less than \$500 nor more than \$5,000 per violation, or upon default of payment be imprisoned for not more than 90 days.

(2) Graffiti Abatement. Graffiti shall be removed by the property owner or by the City at the property owner's expense. The Director of Public Works may order graffiti removed within a time certain. If a property owner fails to remove graffiti within the time specified in the order, the Director of Public Works may cause the graffiti to be removed. The Director of Public Works shall keep an accurate account of the expenses thereof and report the same to the City Clerk/Treasurer, who shall annually prepare a statement of the expense so incurred on each lot or parcel of land. The amount charged to each lot or parcel of land shall be entered in the tax roll as a special tax against said lot or parcel of land, and shall be collected in all respects like other taxes upon real estate.

17.08 OFF THE ROAD VEHICLES

(1) *Definition.* Off the road vehicles means any device which is driven by an internal combustion engine or by an electric motor, and which may be used to transport or draw any person or property. It includes, without limitation for lack of enumeration, such devices commonly known as mini-bikes, trail bikes, go-carts, motor bicycles and all-terrain vehicles which are commonly operated off the traveled portion of the public thoroughfare and whether the vehicles are registered or non-registered. Snowmobiles, which are regulated by separate ordinance, garden tractors, lawn mowers, golf carts, emergency or maintenance vehicles and amphibious vehicles are excluded from this definition.

(2) *Restrictions on Operation.* No person may operate an off the road vehicle:

(a) in any district zoned residential between the hours of 8:00 p.m. and 9:00 a.m.; or,

(b) within 250 feet of buildings or improvements owned by someone other than the owner of the vehicle.

(3) *Penalty.* Any person who violates this code section shall, upon conviction, forfeit the following amounts: first offense – \$100.00; second offense – \$200.00; third or more offense – \$300.00, together with the costs of prosecution and, in default of payment thereof, shall be imprisoned in the county jail until such forfeiture and costs are paid but not to exceed ninety (90) days. Each violation and each day a violation continues or occurs shall constitute a separate offense.

17.09 DISPLAY OF SEXUALLY ORIENTED MERCHANDISE

(1) *Definitions.* For purposes of this section, the following words and phrases shall have the following meanings:

(a) *Business operator* means any person who owns, leases, operates or manages or is employed by a business establishment.

(b) *Child or children* means any person under the age of 18.

(c) *Knowingly* means having general knowledge of, or a reason to know or a belief or grounds for belief which warrants further inquiry into the age of a person.

(d) *Merchandise* means, without limitation, any banner, button, clothing (including hats), figurine, game, greeting card, magnet, photograph, postcard, novelty item, poster, sculpture, souvenir, sticker, towel or similar item, whether or not the item is offered for sale.

(e) *Sexually oriented merchandise* means any merchandise which graphically depicts or describes human or animal sexual activities or bodily organs. This shall include any depiction or description, by pictorial representation or language, of any sexual intercourse; masturbation; sadomasochistic abuse; sexual penetration with an inanimate object; sodomy; bestiality; uncovered genitals, buttocks, or female breast; defecation or urination; covered genitals in an obvious state of sexual stimulation or arousal; or the fondling or other erotic touching of genitals, the pubic region, buttocks or female breasts.

(2) *Open display or sale to children unlawful.*

(a) It shall be unlawful for any business operator to display sexually oriented merchandise unless such merchandise is confined to an area of the business establishment that is separate and enclosed so that the merchandise is

inaccessible to and out of the view of children and cannot be viewed from outside the business establishment.

(b) It shall be unlawful for a business operator to knowingly sell sexually oriented merchandise to a child or to permit a child to enter the area where sexually oriented merchandise is displayed unless the child is accompanied by an adult parent, or legal guardian.

(3) *Signage required.* Any business owner who displays sexually oriented merchandise shall prominently display a clearly legible sign or signs as necessary to notify anyone entering an area where such merchandise is displayed that sexually oriented merchandise is displayed and that no one under the age of 18 may enter the area unless accompanied by a parent or legal guardian. Such sign shall have a white background with the text in block letters no less than one inch in height which shall be black in color.

(4) *State law not superseded.* This section shall not be deemed to supersede or conflict with Wis. Stat. § 66.0107(3) or 944.21(7), obscene material or performance.

(5) *Penalty.* Any person who violates this code section, upon conviction thereof, shall forfeit not less than \$500.00, and not more than \$1,000.00, together with the standard statutory costs, in default of such forfeiture and costs, shall be imprisoned in the county jail for not more than 30 days. Each day of continued violation shall constitute a separate violation and offense.

17.10 CHRONIC NUISANCE PREMISES

(1) Findings. The Common Council finds that certain premises within the City receive and require more than the general, acceptable level of police services. Such premises place an undue and inappropriate burden on City of Wisconsin Dells taxpayers, and constitute public nuisances. The Common Council therefore authorizes the Chief of Police to charge the owners of such premises the costs associated with abating the violations at premises where nuisance activities chronically occur and to provide for forfeitures for the failure of property owners to abate such nuisance activities.

(2) Definitions. The following terms are defined as follows in this chapter:

(a) “Chief” means the Chief of Police or designee.

(b) “Enforcement Action” means the arrest, the issuance of a citation, or the issuance of a written warning.

(c) “WDC” means City of Wisconsin Dells Municipal Code of Ordinances.

(d) “Nuisance Activity” includes any of the following activities,

behaviors, or conduct occurring on a premises, including but not limited to:

1. Violation of any Wisconsin Statutes which may result in criminal penalties.
2. Violations of the City of Wisconsin Dells Municipal Code and Ordinances.
3. Violations of any applicable Wisconsin Administrative Code.

(e) "Owner" means the owner of the premises and its agents.

(f) "Person associated with a premises" means the premises owner, operator, manager, officer, director, resident, occupant, guest, visitor, customer, patron or employee or agent of any of the above individuals, or one who waits to enter or attempts entry on the premises.

(g) "Premises" means individual dwelling unit; any property or premises used for residential purposes whether or not owner occupied; an individual business or commercial property; and associated common areas thereof.

(h) "Lodging Facility" means a premises licensed as a hotel, motel, bed and breakfast or other overnight or short-term facility for stays of one (1) to thirty (30) days.

(3) Notice.

(a) Whenever the Chief determines that three (3) or more nuisance activities resulting in enforcement action have occurred at a premises on separate days during a 12-month period, the Chief may notify the premises owner and tenant in writing. In reaching this determination, the Chief shall not count nuisance activities resulting in enforcement actions that were reported by the owner of the premises.

(b) The Chief may also provide notice in the following circumstances:

1. One (1) enforcement action (incident) resulting in felony charges being referred to the Courts for crimes against persons, for Wis. Stat. Ch. 961 offenses, or any human trafficking violations.
2. One (1) enforcement action resulting from a nuisance activity, intentionally performed by an owner or person associated with the premise.

(c) The Chief's written notice shall be delivered to the owner of the premises by one of the following methods in descending order of preference: personal service, certified mail, first class mail, posting and/or publication, such other means as provided by law for service of process in a civil action, in that order, as the Chief may determine appropriate under the particular facts and circumstances.

(4) Abatement Plan. Any owner receiving such notice shall personally meet with the Chief, or his/her designee, within five (5) days of receipt of such notice. The Chief and person shall review the problems occurring upon the premises and/or property. Within ten (10) days of this meeting, the owner shall submit to the Chief, or his/her designee, a written abatement plan designed to effectively end all the nuisance activity upon the premises. The plan shall also specify a name, address and telephone number of a person living within sixty (60) miles of the premises who can be contacted in the event of further police, fire or inspection activities and/or contact.

(5) Additional Nuisance Activity. Whenever the Chief determines that:

(a) Additional nuisance activity and/or enforcement action has/have occurred upon a premises for which the Chief's notice has been issued under this Chapter; and,

(b) This additional nuisance activity and/or enforcement action has/have occurred more than fifteen (15) days after the Chief's notice was served; and,

(c) Reasonable effort has not been made by the owner of the premises to abate the nuisance activity; then,

(d) The Chief may calculate all of the cost, fees and expenses arising from and/or pertaining to any and all such police and related City responses and enforcement including, but not limited to, actual burdened labor, overtime, materials, vehicle use and related administrative time and efforts for this and any subsequent nuisance activities and enforcement actions upon, for and/or pertaining to the premises. The Chief shall cause all such costs, fees and expenses to be charged against the owner of the premises and the premises itself, and if unpaid, charged, assessed, levied and collected by the City as a special charge against the premises/property pursuant to Wis. Stat. § 66.0627.

(6) Appeal.

(a) Appeal by Affected Property Owner. An affected owner of the premises may appeal the Police Chief's determination and invoiced special charges arising from and imposed for the police and related costs, fees and expenses set forth in this Ordinance in the manner set forth in this Subsection.

(b) The appeal shall be in writing, filed with the City Clerk, stating with specificity the grounds for the appeal and the relief requested. The appeal shall be filed within 90 days of the invoice from the City Clerk.

(c) The appeal shall be considered only if filed prior to the time that any unpaid special charges imposed against the premises/property under this Chapter are turned over by the Treasurer onto the tax roll.

(d) Chapter 68 of the Wisconsin Statutes shall not apply to such an appeal nor shall any other provision of state law or city ordinance to the contrary. The appellate procedure set forth herein shall govern and be exclusive.

(e) Upon receipt of the written appeal, the Clerk shall set the matter for a public hearing for a regularly scheduled meeting of the Common Council not less than thirty (30) days nor more than sixty (60) days after the filing of the written appeal.

(f) The Clerk shall provide written notice to the appellant and to the Chief of Police of such Common Council meeting hearing date, time and place.

(g) The parties may agree to continuances and stipulations as to procedure and substance, but in no event shall the hearing be continued beyond the time set forth in Subparagraph c.

(h) The hearing shall be open to the public, recorded by a sound recording device and the recording preserved for seven years by the City Clerk. A party may request a court reporter but the requesting party shall pay all costs of the court reporter in advance regardless of the determination of the appeal.

(i) The appellant and the Chief of Police may each present witnesses who testify upon oath after being duly sworn-in by the City Clerk, the Deputy City Clerk or any person authorized by law to administer oaths.

(j) After the hearing, the Common Council in open session shall deliberate and then make a determination by recorded motion, second and vote with a majority of Council Members voting governing.

(k) The City Clerk/Treasurer shall adjust all invoices, tax and related City records in accord with the Council's determination.

(7) Violations, Penalties, Remedies, Injunctive and Other Relief. In addition to the special charges authorized and described above, the following penalties, remedies and other cumulative and not exclusive, may be jointly and severally sought and/or employed by the City, and may be ordered and/or imposed, as applicable, by the courts:

(a) First Offense. Any person who shall violate any provision of this chapter or any regulation, rule or order made hereunder shall forfeit and pay to the City not less than \$100.00 nor more than \$1,000.00, together with the costs of prosecution.

(b) Subsequent Offenses. Any person who shall violate any provision of this chapter or any regulation, rule or order made hereunder within twenty-four (24) months after committing a previous violation shall forfeit and pay to the City not less than \$200.00 nor more than \$5,000, together with the costs of prosecution.

(c) Each and every day that a violation occurs, continues and/or remains present constitutes a separate offense.

(d) The City, in addition to the above monetary penalty(ies) and special charges may from time to time seek and obtain, and the court may order, temporary and/or permanent injunctive relief, remedies, judgments and/or orders of the court against any person(s) and/or property(ies) as the court may, from time to time deem necessary, appropriate and/or desirable to effectuate the intent of this chapter and the public good, peace, order, welfare and/or safety.

(e) In addition to the above penalties, relief and remedies, the Common Council may refuse to issue or not-renew any license or permit to the owner of the premises and/or the premises, after conducting a public hearing thereon.

(f) It shall be the responsibility of the convicted person(s) to immediately abate each and every violation upon the premise property as expeditiously as possible, unless otherwise directed by the City or the court.

(g) This chapter is cumulative in its legal affect and is not in lieu of any and all other legal and equitable remedies under City ordinances, state statutes, state administrative codes and common law, including, but not limited to, forfeiture of the property to the City under this chapter and/or the applicable state statutes.

17.11 PENALTIES

Any person, firm, or corporation which shall violate any of the provisions of Chapter 17 for which no penalty is specifically provided shall, upon conviction thereof, forfeit not less than \$25.00 nor more than \$200.00, together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until said forfeiture and costs are paid, but not to exceed 90 days.

APPENDIX to Wisconsin Dells Municipal Code Sec. 17.10

Chronic Nuisance Activities

1. Harassment, as defined in Wis. Stat. § 947.013.
2. Disorderly Conduct, as defined in Wis. Stat. § 947.01.
3. Acts of Violence as defined in Wis. Stat. Ch. 940.
4. Lewd and Lascivious Behavior, as defined in Wis. Stat. § 944.20.
5. Prostitution, as defined in Wis. Stat. § 944.30.
6. Keeping a Place of Prostitution, as defined in Wis. Stat. § 944.34.
7. Soliciting Prostitution, as defined in Wis. Stat. § 944.32.
8. Patronizing Prostitution, as defined in Wis. Stat. § 944.31.
9. Pandering, as defined in Wis. Stat. § 944.33.
10. Theft, as defined in Wis. Stat. § 943.20.
11. Receiving Stolen Property, as defined in Wis. Stat. § 943.34.
12. Arson, as defined in Wis. Stat. § 943.02.
13. Possession, Manufacture or Delivery of a Controlled Substance or related offenses, as defined in Wis. Stat. Ch. 961 and WDC § 18.16.
14. Gambling, as defined in Wis. Stat. § 945.02.
15. Animal violations as defined in WDC Chap. 25.
16. Trespassing, as defined in Wis. Stat. §§ 943.13 and 943.14.
17. Loitering, as defined in WDC § 18.14(7).
18. Littering, as defined in WDC § 18.14(6).
19. Illegal possession or use of firearms, as defined in Wis. Stat. Chap. 941, Wis. Stat. § 948.60 and WDC § 18.08.

20. Indecent exposure, as defined in Wis. Stat. § 944.20(1)(b).
21. Possessing open intoxicants in public, as defined in WDC § 18.04(4).
22. Selling or giving away tobacco products to persons under the age of eighteen (18), as defined in Wis. Stat. § 254.92 and WDC § 18.06
23. Illegal sale, discharge and use of fireworks, as defined in WDC § 16.20(2) and (3).
24. Truancy, and contributing to truancy, as defined in WDC § 18.03.
25. Permitting premises for gambling, as defined in WDC § 18.11(3).
26. Loitering by minors, as defined in WDC § 18.14(7).
27. Underage consumption, possession or procurement of alcohol, as defined in Wis. Stat. Chap. 125 and WDC § 18.04.
28. Conducting a disorderly, riotous or indecent licensed premises, as defined in Wis. Stat. § 125.12(2)2.
29. Illegal sale of intoxicating liquor or fermented malt beverages, as defined in Wis. Stat. Chap. 125 and WDC §18.04.
30. Any Conspiracy to Commit, as defined in Wis. Stat. § 939.31; or Attempt to Commit, as defined in Wis. Stat. § 939.32; any of the criminal activities, behaviors or conduct enumerated above.
31. Any act of aiding and abetting, as defined in Wis. Stat. § 939.05, any of the activities, behaviors or conduct enumerated above.
32. Display of Sexually Oriented Merchandise as defined in WDC § 17.09.

CHAPTER 17 REVISIONS

06-07-76
09-20-76
06-18-79
07-27-81 A-75
01-25-85 A-139
06-21-90 A-258
06-17-91 A-287
07-01-93 A-329
05-14-97 A- 410 Graffiti Vandalism Prohibited
09-02-00 A-468 Designate bright, flashing, illuminating lights as a public nuisance
11-27-02 A-514 Off Road Vehicles – regulations 17.08
04-25-07 A-613 Regulates noise created by outdoor entertainment. 17.02(5)(f)
02-24-10 A-671 Deal w/owners of chronic nuisance properties. 17.10
04-27-11 A-700 Repeals and Recreates 17.03.
11-23-13 A-704 Regulates display of sexually oriented merchandise. 17.09
10-27-22 A-887 Modifies chronic nuisance premise def & gives Police Chief discretion 17.10