

CHAPTER 9.02 PUBLIC NUISANCES

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Sec. 9.02.01 **Public Nuisances Prohibited**

No person may create, continue, erect, maintain, cause, continue, install, construct, or permit to exist any public nuisance within the Town of Sumpter.

Sec. 9.02.02 **Public Nuisance Defined**

- A. A public nuisance is a thing, activity, occupation, condition, or use in relation to property that continues for such a length of time as to:
 - (1) Substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public;
 - (2) In any way render the public insecure in life or in the use of property;
 - (3) Greatly offend the public morals or decency; or
 - (4) Unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.
- B. Wis. Stat. §823.08 still applies to protect agricultural uses and production in the Town and any agricultural use or practice may not be found to be a nuisance if the requirements of Wis. Stat. §823.08(3) are satisfied.

Sec. 9.02.03 **Nuisances Affecting Public Health and Safety**

No person may create, continue, erect, maintain, cause, continue, install, construct, or permit to exist in the Town a public nuisance associated with, causing, or likely to cause danger, disturbance, or injury to public health. The following acts, uses, activities, things, occupations, places, or physical conditions not properly and timely removed by the owner or occupant of the land after written notice to remove from the Town Board to the owner or occupant of the land where the public nuisance occurs, or to any person responsible for the creation, maintenance, or permitting of such nuisance in the Town, are specifically declared to be a public nuisance as follows:

- A. Any place in the Town where a building or structure, the contents of a building or structure, or any associated electrical, heat, water, or sewer system located on public or private lands is so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation, and the conditions that are dangerous, unsafe, unsanitary, or otherwise render the building unfit for human habitation are not timely removed or discontinued.
- B. Any place in the Town where accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, rotting yard waste, bedding, boxes, packing material, or any other material in which flies, mosquitoes, disease-carrying insects, rats, or other vermin may breed.
- C. Any place in the Town where junked or abandoned vehicles, furniture, mattresses, construction material, refrigerators, appliances, or other similar items have accumulated outside of a building or enclosure and that remain for a period of longer than thirty (30) days if on private property or for a period of longer than 72 hours if on public property.
- D. Any place in the Town where for a period exceeding thirty (30) days upon private property an unlicensed or unregistered vehicle is parked, stored, or otherwise kept outside a building.
- E. Any place in the Town where noxious weeds over one foot high are not timely cut or removed within fourteen (14) days after the posting of a notice to destroy noxious weeds under s. 66.0407, Wis. Stats., or after receipt of written notice from the Town Board to cut or remove such noxious weeds.
- F. Any animals running at large.
- G. Any use of property or substances within the Town 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 Town.

- H. Any abandoned wells not securely covered or secured from public use.
- I. Any decayed, harmfully adulterated, or unwholesome food or drink sold or offered for sale to the public.
- J. Any place in the Town where unburied animal carcasses are located on private or public land and the animal carcasses are not timely removed or discarded, including by timely burial in a sanitary manner.
- K. Any place in the Town where noxious, nauseous, unwholesome, or polluted water and waste are located on private or public land, including town roads, highways, bridges, sidewalks, alleys, or other public lands.
- L. The pollution of any public well or cistern, stream, lake, canal, or other body of water by sewage, creamery, industrial wastes, or other similar substances.
- M. Any place in the Town where combustible materials are located and stored on private or public lands and the materials are not timely removed or safely stored in accordance with applicable law.

Sec. 9.02.04 Public Nuisances Offending Morals and Decency

No person may create, continue, erect, maintain, cause, continue, install, construct, or permit to exist in the Town a public nuisance associated with, causing, or likely to cause danger, disturbance, or injury to public morals or decency. The following acts, uses, activities, things, occupations, places, or physical conditions not properly and timely removed by the owner or occupant of the land after written notice to remove from the Town Board to the owner or occupant of the land where the public nuisance occurs, or to any person responsible for the creation, maintenance, or permitting of such nuisance in the town, are specifically declared to be a public nuisance as follows:

- A. Pursuant to sec. 823.09, Wis. Stats., whoever erects, establishes, continues, maintains, uses, occupies, or leases any building or part of a building, erection, or place to be used for the purpose of lewdness or prostitution, or permits the same to be so used, in the Town, is guilty of a nuisance and the building, erection, or place in or upon which such lewdness or prostitution is conducted, permitted, carried on, continued, or exists, and the furniture, fixtures, and contents used therewith for the same purpose, are declared a nuisance, and shall be enjoined and abated.

- B. Pursuant to s. 823.113(1), Wis. Stats., any building or structure that is used to facilitate the delivery, distribution, or manufacture, as defined in s. 961.01(6), (9), and (13), Wis. Stats., respectively, of a controlled substance as defined in s. 961.01(4), Wis. Stats., or a controlled substance analog as defined in s. 961.01(4m), Wis. Stats., and any building or structure where those acts take place, is a public nuisance and may be proceeded against under s. 823.113, Wis. Stats.
- C. Pursuant to s. 125.14(5), Wis. Stats., any building or place where alcohol beverages or alcohol is sold, possessed, stored, brewed, bottled, manufactured, or rectified without the necessary permit or license issued under Chapters 125 or 139, Wis. Stats., or where persons are permitted to drink alcohol beverages in violation of Chapter 125, Wis. Stats., is a public nuisance and may be closed until the activity in violation of chapter 125, Wis. Stats., is abated. When the activity is abated, the building or place may be used for any lawful purpose.
- D. Pursuant to s. 823.20, Wis. Stats., any gambling place, as defined in s. 945.01(4)(a), Wis. Stats., is a public nuisance.
- E. Any place or premises within the Town where Town ordinances relating to the public health, safety, peace, and general welfare of the public are openly, intentionally, continuously, and repeatedly violated.

Sec. 9.02.05 **Nuisances Affecting Public Peace and Order**

The following acts, omission, places, and conditions are hereby specifically declared to be public nuisances affecting public peace and order, but such enumeration shall not be construed to exclude other nuisances affecting peace and safety coming within the definition of a public nuisance under this Chapter:

- A. Any place in the Town where any unreasonably loud, discordant, and unnecessary sound conditions, including sounds from vehicles, equipment, machinery, guns, fireworks, or from any human-created or -aided sounds, including music, is located on private or public land and is not timely discontinued within seven days (7) of the written receipt of notice to discontinue from the Town Board.
- B. All obstructions of highways, streets, alleys, or other roads open to public use and all excavations in or under the same, except as legally permitted by the State or local authorities, unless the obstruction or excavation is kept or maintained for an unreasonable or illegal length of time and which does not conform to the permit issued by the State or local authority.

Sec. 9.02.06 **Abatement of Public Nuisances**

- A. Owner of Premises Responsibility. Any owner or occupant of land in the town is responsible for compliance with this ordinance on the owner's or occupant's land regardless of responsibility for the uses, activities, or things located on the land that give rise to the public nuisance.
- B. Inspection of Premises. Whenever a complaint is made to the Town Board that a public nuisance exists within the Town and the Town Board determines that sufficient grounds exist for further inspection, the Town Board shall cause the appropriate County authority, Town Building Inspector, or other Town Board designee to make an inspection of the premises complained of and submit a written report, with photographic documentation if possible, of the inspection and submit a copy of the report to the Town Board for its review and a copy to the Town Clerk for filing in the Town's records.
- C. Summary Abatement.
 - (1) Notice to Owner. If the Town Board determines upon review of the inspection report that a public nuisance exists within the Town and that there is great, immediate, and substantial danger or threat to the public health or safety, then the Town Board shall cause to have served a written order upon the person who is causing, permitting, or maintaining the public nuisance, and the owner or occupant of the premises where the public nuisance is caused, permitted, or maintained. The order notice shall direct the owner or occupant to remove the public nuisance within 24 hours. The order shall also state that unless the public nuisance is abated or removed within that time, that due to the emergency conditions the Town may cause the public nuisance to be abated and shall charge the costs of abatement to the owner, occupant, or person causing, permitting, or maintaining the public nuisance. If immediate personal service cannot be made, one copy of the written notice shall be posted on the premises in a location likely to attract the attention of the owner or occupant of the premises or the person who is causing, permitting, or maintaining the public nuisance, and one copy of the notice shall be served by first class mail to the last known address for the owner or occupant of the premises.
 - (2) Abatement by Town. If the public nuisance is not abated within the time provided in the notice served under paragraph (1) or if the owner, occupant, or person causing the public nuisance, if known,

cannot be found, the Town Board shall cause the abatement or removal of the public nuisance.

- D. Abatement by Court Action. If the Town Board determines upon review of the inspection report that a public nuisance exists within the Town yet the nature of the nuisance does not pose a great, immediate, and substantial danger or threat to the public health or safety, the Town Board may upon its findings resolve to take one or more of the following actions:
- (1) Issue and serve a written order to abate and remove the public nuisance upon the person who is causing, permitting, or maintaining the public nuisance, and the owner or occupant of the premises where the public nuisance is caused, permitted, or maintained.
 - (2) Issue and serve a citation for violation of this ordinance upon the person who is causing, permitting, or maintaining the public nuisance, and the owner or occupant of the premises where the public nuisance is caused, permitted, or maintained.
 - (3) Cause the Town Attorney to commence a formal civil complaint in Sauk County Circuit Court for abatement of the public nuisance.
- E. Other Methods Not Excluded. Nothing herein shall be construed to prohibit the injunction or abatement of public nuisances using other means in accordance with the laws of the State of Wisconsin, including non-issuance or revocation of any permits or licenses issued by the Town or advocating for non-issuance or revocation of permits issued by other state and local authorities.

Sec. 9.02.07 Costs of Abatement

In addition to any other penalties imposed by this Chapter for the erection, contrivance, creation, continuance, or maintenance of a public nuisance and violation of this ordinance, the cost of abatement of any public nuisance by the Town may be collected under this ordinance or s. 823.06, Wis. Stats., as a debt or expense from the owner or occupant of the real property for causing, permitting, or maintaining the public nuisance. If notice to abate the nuisance has been given to the owner or occupant previously, the cost of abatement may be assessed against the real property for services rendered and incurred by the Town to enjoin or abate the public nuisance as a special charge under s. 66.0627, Wis. Stats., unless paid earlier. If any vehicle, structure, equipment, implement, or appliance is abandoned or remains unclaimed in violation of this Chapter, the Town Board may proceed to declare this personal property abandoned and proceed to dispose of this personal property under s. 66.0139, Wis. Stats., by public auction or other means as determined in writing by the Town Board.

Sec. 9.02.08 **Enforcement Provisions**

Any person, partnership, corporation, or other legal entity who violates this Chapter shall, upon conviction, pay a forfeiture of not less than Twenty Dollars (\$20) nor more than Five Hundred Dollars (\$500) together with the applicable surcharges, assessments, and costs of prosecution for each violation. Each day a violation exists or continues constitutes a separate offense under this Chapter. In addition to any forfeitures, the Town Board may seek court action to abate any violations of this Chapter.