

## **Chapter 42**

### **NUISANCES**

#### **Article I. Public Nuisances**

- Sec. 42.100. Definitions.
- Sec .42.101. Penalty; Abatement; Costs.
- Sec .42.102. Public nuisances prohibited.
- Sec .42.103. Public nuisances affecting health.
- Sec .42.104. Public nuisances offending morals and decency.
- Sec .42.105. Public nuisances affecting peace and safety.
- Sec. 42.106. Obscene Materials and Performances.
- Sec. 42.107. Noxious Weeds and other Unsightly Growth.

#### **Article II. Junk**

- Sec. 42.108. State Code Adopted.
- Sec. 42.109. Junk.
- Sec. 42.110. Junk Cars.

#### **Article III. Events/Assembly**

- Sec. 42.111. Outdoor Transient, Temporary or Intermittent Events/Assembly.

## ARTICLE I. PUBLIC NUISANCES

### Sec. 42.100. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning:

*Public nuisance* means a thing, act, occupations, condition or use of property which shall continue for such length of time as to:

1. Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
2. In any way render the public insecure in life or in the use of property; and
3. 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.

### Sec. 42.101. Penalty, abatement, costs.

1. Any person violating any of the provisions of this chapter shall, upon conviction thereof, be subject to Section 1.109. In addition, a violation of this chapter is subject to subsections (2) and (3) of this section.

2. *Abatement.*

a. *Inspection of premises.* Whenever a complaint is made to the town that a public nuisance or a violation of section 42.102, section 42.103, section 42.104, section 42.105, section 42.106, section 42.107 and section 42.109 exists, the town board shall forthwith inspect or designate an inspecting officer to investigate the complaint and to inspect the premises involved and make a written report of the inspection or investigation. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same with the town clerk.

b. *Summary abatement. Notice to owner.* If the inspecting officer shall determine 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, the town board shall serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises upon which such nuisance is caused, permitted or maintained and to post a copy of the notice on the premises. Such notice shall direct the person, owner, or occupant of the premises causing, permitting or maintaining such nuisance to abate or remove such nuisance within 24 hours or such other time and the town board may prescribe and shall state that, unless such nuisance is so abated, the town will cause the same to be abated and will charge the cost to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

3. *Abatement by 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 board shall cause the abatement or removal of such public nuisance.

4. *Abatement by court action.* If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, the inspecting officer shall file a written report of his or her findings with the town board who shall cause an action to abate such nuisance to be commenced in the name of the town and the Circuit Court of Marathon County, in accordance with the provisions of Wis. Stats. Ch. 823.

5. *Other methods not excluded.* Nothing in this article shall be construed as prohibiting abatement of public nuisances by the town in accordance with law.

6. *Cost of abatement.* In addition to any other penalty imposed by this article for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance and, if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge and, if not paid within a reasonable time set by the town board, may cause the delinquent special charge to be included in the current or next tax roll.

**Sec. 42.102. Public nuisances prohibited.**

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the town in clear violation of Wis. Stats. Ch. 823 which is herein adopted as if fully set forth and as from time to time amended.

**Sec. 42.103. Public nuisances affecting health.**

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances of this section:

1. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
2. Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
3. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, refuse, wastes resulting from the remodeling, construction or reconstruction of a building or structure, roadway or sidewalk or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed, excluding compost piles.
4. All animals running at large.
5. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other particulates and atmospheric pollutants within the town or within one mile there from in such quantities as to endanger the health of persons of ordinary sensibilities, to threaten or cause substantial injury to property in the town, or to substantially annoy persons of ordinary sensibilities in the town.
6. Any outdoor furnace operated in a manner which substantially annoys, injures or endangers the comfort, health, repose or safety and which is hazardous, harmful, noxious or offensive to the surrounding neighborhood.
7. 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.
8. Any use of property, substances or things within the town emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or 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. All abandoned wells not securely covered or secured from public use.
9. 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 town.

**Sec. 42.104. Public nuisances offending morals and decency.**

The following acts, omissions, places, conditions and things are specifically declared to be public health

nuisances, but such enumeration shall not be construed to exclude other health nuisances of this section:

1. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution or gambling.
2. All places where alcoholic beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license required by Section 6.100.
3. Any place or premises within the Town where ordinances or laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
4. Any place or premises resorted to for the purpose of drinking alcoholic beverages in violation of law or ordinance.

**Sec. 42.105. Public nuisances affecting peace and safety.**

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances of this section:

1. 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's safety.
2. All buildings erected, repaired or altered in violation of fire hazard areas relating to materials and manner of construction of buildings and structures within such district.
3. All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing that purport to be or may be mistaken as an official traffic control device, railroad signal or which because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any such device, signal or sign.
4. 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.
5. All dwelling so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
6. All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.
7. All loud, discordant and unnecessary noises or vibrations of any kind.
8. 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 town.
9. The keeping or harboring of any animal or fowl that permits an offensive odor or unusual odor that greatly annoys or disturbs a neighborhood or any considerable number of persons within the town.
10. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the town or which, although made in accordance with town authorization, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished.

11. All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
12. All abandoned refrigerators or iceboxes from which the doors or other covers have not been removed or which are not equipped with a device for opening from the inside.
13. 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.
14. Repeated or continuous violations of ordinances or laws of the state relating to the storage of flammable liquids.

**Sec. 42.106. Obscene materials and performances.**

1. *Definitions.* In this Ordinance the following words shall mean:

a. *Material* means any printed matter, visual representation, or sound recording, and includes but is not limited to books, magazines, motion picture films, videotapes, pamphlets, newspapers, pictures, photographs, drawings, sculptures and tape or wire recordings.

b. *Obscene.* Any material or performance is "obscene" if:

(1) The average person, applying contemporary community standards, would find the matter appeals to the prurient interest if taken as a whole;

(2) The matter, under contemporary community standards, describes or shows sexual conduct in a patently offensive way; and

(3) The matter lacks serious literary, artistic, political or scientific value if taken as a whole.

c. *Performance* means any play, motion picture film, dance or other exhibition performed before an audience.

d. *Sexual conduct* means the commission or simulation of any of the following: sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus or lewd exhibition of the human genitals.

2. *Prohibition.* No person shall, with the knowledge of the character and content of the material or performance:

a. Exhibit, commercially print, advertise, sell, publish or transfer any obscene material;

b. Have in his or her possession, for purpose of sale, any obscene material;

c. Advertise, produce, admit persons to or perform in any obscene performance;

d. Require a retailer, wholesaler or distributor, as a condition to the purchase of other goods, to accept obscene material.

**Sec.42.107. Noxious weeds and other unsightly growth.**

1. *Definitions.*

a. *Noxious Weed.* The following are noxious weeds:

- (1) Canada or other thistles;
- (2) Chicorium itybus (commonly called "chicory");
- (3) Ambrosia artemis laipolia (commonly called "ragweed");
- (4) Lactuca scariola (commonly called "prickly lettuce");
- (5) Hordeum jubatum (commonly called "squirrel tail");
- (6) Lappa officinalis (commonly called "burdock");

(7) White or ox-eyed daisies, snapdragon or toad flax, cockle-burr, sow thistle, sour dock and yellow dock, wild mustard, wild parsnip, quitch grass, also known also as quack grass or leafy spurge, and field bind weed (commonly called "creeping jenny");

- (8) Cuscuta sp. (commonly called "dodder");
- (9) Brassica juncea (commonly called "Indian mustard");
- (10) Plantage lanceolate (commonly called "buckthorn");
- (11) Raphanus raphanistrum (commonly called "wild radish"); and
- (12) Barbarea vulgaris (commonly called "yellow rocket").

b. *Weed commissioner* shall refer to the town zoning administrator or another person appointed or designated by the town board to serve as weed commissioner.

c. *Destroy* means the complete killing of weeds or the killing of weed plants over the surface and ground by the use of chemicals, cutting tillage, cropage system or a combination of these at such time and in such manner as will effectively prevent such plants from maturing to the bloom and flower stage.

2. *Unsightly growth.*

a. *To be controlled.*

(1) The owner, lessee, occupant, or person in control of any lot where a residence is located shall not allow, permit, or maintain the growth of grass, hay, brambles, brush, reeds, rushes, cat-tails, or any combination thereof, or any unsightly growth, to a height of over 12 inches. The weed commissioner or the town board shall determine what, if any, unsightly growth may be maintained and what unsightly growth must be cut and removed. The weed commissioner shall cut down and remove or cause to be cut down and removed all such growths as described in subsection 1. above and shall charge the cost per the town's fee schedule.

b. *Policy and intent.* Unsightly growth as described in this subsection causes blight to residential areas and other properties, provides breeding and nesting areas for obnoxious insects and other pests, and conceals vermin

and filthy deposits and which substantially annoys, injures or endangers the comfort, health, repose or safety of the public and which is declared a public nuisance.

## ARTICLE II. JUNK

### Sec. 42.108. Abandoned Vehicles.

1. *Abandonment of vehicles prohibited.* No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public highway or private or public property, in ordinary public view, for such time and under circumstances as to cause the vehicle to reasonably appear to be abandoned. Except as otherwise provided in Wis. Stats. § 342.40, any vehicle left unattended without the permission of the property owner for more than forty-eight (48) hours is deemed abandoned and is declared a public nuisance.
2. *Adoption and incorporation of abandoned vehicle statutes.* Wis. Stats. §§ 342.40 and 349.13 are hereby adopted and incorporated by reference.
3. *Authority of town board to junk.* The town board may determine that the cost of towing and storage charges for impoundment of an abandoned vehicle would exceed the value of the vehicle. If the town board makes this determination then it may direct that the vehicle be junked or sold by the town upon determination of the Marathon County Sheriff that the vehicle is not stolen nor otherwise wanted for evidence or for other reasons.
4. *Enforcement of ordinance.* The owner of any vehicle who abandons a vehicle shall be subject to the General Penalty set forth in sec. 1.109 and the town may also recover the cost of impounding and disposing any abandoned vehicle under the procedure set forth in Wis. Stats. § 342.40.

### Sec. 42.109. Junk.

1. The keeping, storing and placing of all junk such as scrap iron, wire rods, wrecked vehicles, junked vehicles, junked machinery, wrecked machinery, junked trailers, wastes resulting from the remodeling, construction or reconstruction of a building or structure, roadway or sidewalk, bottles, jugs, rags, broken glass, paper of all kinds, scrap metal and anything that might pertain to a junkyard is declared to be a public nuisance and detriment to the public health and welfare of the town.
2. Any person violating subsection 42.109 shall be subject to section 1.109. Upon removal, the junk shall be stored in a junkyard or salvage yard or other suitable place for thirty (30) days and the owner thereof shall be notified if the name and whereabouts of the owner can be readily ascertained. The junk shall be disposed of unless claimed by the owner. If the owner reclaims the junk, all reasonable charges for handling and storage shall be paid by the owner.

### Sec. 42.110. Junk Cars.

1. The purpose of this section is to regulate placement of unlicensed motor vehicles, trucks, truck trailers, buses, vans, recreational vehicles and similar vehicles and equipment which are either inoperable, unused and unlicensed, stripped, damaged, worn out or abandoned.
2. *Definitions.* The following definitions shall apply in construing this Ordinance:
  - a. *Motor Vehicle.* Any vehicle that is or may be propelled upon the public highway including but not limited to cars, trucks, truck trailers, buses, vans, recreational vehicles and motorcycles. For the purposes of this Ordinance dismantled motor vehicles or parts thereof shall also be included within this definition.
  - b. *License.* Any license that is required to be carried by any motor-driven vehicle when driven, used or propelled upon the public highway.

c. *Unlicensed Motor Vehicle.* A motor vehicle which is required to be licensed by the state of Wisconsin, Department of Transportation, when driven or propelled upon a public road but is not so licensed.

d. *Debris.* Other items that may pertain to a junk yard such as wrecked cars, junked cars, junked trailers or wrecked trailers.

e. *Unsheltered.* Located outside of an enclosed building.

f. *Owner.* Person or persons who hold legal land title to the parcel of land upon which motor vehicles are stored or are to be stored.

g. *Occupant.* Considered to be the person or persons who occupy the premises and who may or may not be the responsible person or persons to harbor such unlicensed motor vehicles.

3. *Prohibited in Areas Zoned Residential.* No person shall allow more than one unsheltered, disassembled, dismantled, junked, wrecked or inoperable or unlicensed vehicle or debris to be stored or to remain in public view upon private property in any area zoned residential within the town for a period of more than thirty (30) days.

4. *Prohibition in Other Areas Not Zoned Residential.* No person shall allow more than three (3) unsheltered, disassembled, dismantled, junked, wrecked or inoperable or unlicensed vehicle stored or debris to be stored or to remain upon private property in public view in areas which are not zoned residential for a period of more than thirty (30) days. This prohibition does not apply to licensed junk yards or automotive sales or repair businesses located within a properly zoned area.

5. *Declared Public Nuisances.* Any violation of the provisions of subsections 3 or 4 of this section as well as the keeping, housing, storing and placing of all debris, such as wrecked cars, junked cars, junked trailers, wrecked trailers and anything that might pertain to a junk yard is hereby declared to be a public nuisance and detriment to the public health and welfare of the citizens of the town if the storing and placement thereof is located in an unsheltered area, unless the storing or placement thereof is located in a zoning district of the town allowing for such storage or placement as an authorized or "permitted use."

#### 6. *Enforcement.*

a. The town board may direct that a citation be issued for violation of this section subject to the general penalty provisions in section 1.109.

b. If the town board shall find any vehicle, vehicles or debris as described above, placed or stored in the public view upon private property in said town for more than thirty (30) days, the town board shall notify the owner of such property and/or the owner of said vehicle or debris as to the existence of the violation, the proper disposal of the vehicle and/or debris and request said owner(s) to remove such vehicle and/or debris within ninety (90) days) except as set forth in subsection d.

c. Upon the expiration of the ninety (90) days herein, the town or its designee shall inspect the premises and determine if such vehicle, vehicles and/or debris has been removed. If such vehicle, vehicles and/or debris have not been removed within ninety (90) days after such notice the town board may direct an action to abate the vehicle, vehicles and/or debris to be commenced in Marathon County Circuit Court, to be commenced for the recovery of the forfeitures and costs as provided in this section and to abate the nuisance created thereby.

d. If the town board has made a prior request for removal of a vehicle or debris from the premises within one (1) year, the notice and time for removal shall be thirty (30) days. If the vehicles or debris are not removed within thirty (30) days, the town board may direct that abatement action be commenced in the Marathon County Circuit Court.

7. *Cost of removal.* Upon obtaining an Order of the Court, the town board may cause the removal of any property determined to be a nuisance in order to abate the nuisance. The cost of such removal shall be a special charge and shall be billed to the property owner or owners. If the town does not receive payment for the charges within thirty (30) days, the town may include delinquent special charges in the current or next tax roll for collection and settlement. If the owner of said vehicle, vehicles and/or debris removes the vehicles, the owner shall notify the town as to its disposal. If the town removes the vehicle, vehicles and/or debris, the removed items shall be stored in a junk or salvage yard or other suitable place for thirty (30) days and the town shall notify the owner of the storage location, if the name and whereabouts of the owner can be readily ascertained. Unless the owner or owners reclaim the removed items, the town may dispose of said vehicle, vehicles and/or debris. If the owner or owners reclaim the removed items, the owner shall pay all reasonable charges for handling and storage.

### **Article III. Events/Assembly**

#### **Sec. 42.111. Outdoor transient, temporary or intermittent events/assembly.**

1. The purpose of this ordinance is to regulate transient, temporary or intermittent outdoor events and/or assemblies. These regulations are intended to protect the public health, safety and general welfare of the residents and businesses in the town.
2. No person shall conduct a transient, temporary or intermittent event or assembly for gain within the limits of the town of Wausau where admission is gained by the payment of money or any other valuable thing without a permit issued as provided in this section.
3. *Definitions.* In this section unless the context requires otherwise:
  - a. *Transient amusement and temporary/intermittent event/assembly* shall include but are not limited to shows, circuses, music festivals, rodeos, horse shows, race tracks, theatrical performances or carnivals with admission fees for the general public.
  - b. *Rain date* is the date the event will be rescheduled due to inclement weather.
4. *Permit Criteria.* The town board, or its designee, may issue permits based on consideration of the following:
  - a. Whether display or temporary use obstructs pedestrian or vehicular circulation or obstructs vehicular sight distances;
  - b. Whether the event is limited to daylight hours if the event/assembly is located adjacent to a residential or transitional agricultural district;
  - c. Whether the outdoor lighting system, if any, is designed so that no direct source of light is visible from the public right of way and so that no direct beams of light shine upon adjacent lands;
  - d. Whether fencing is necessary for safety and security reasons;
  - e. Whether hours of operation and duration of temporary outdoor sales shall be specified in the permit;
  - f. Whether adequate parking is available;
  - g. Whether possible substantial or undue adverse impact on adjacent property, or on the character of the neighborhood, and any other matters affecting the public health, safety or general welfare, outweigh any public benefits of the proposed assembly or event;

h. Whether there is an adequate plan for restoration of site to original condition and sufficient time to accomplish the restoration;

i. Whether the event is an authorized or permitted use under the town's zoning ordinance;

j. Whether, if the assembly or event is outdoors, there are adequate provisions for drinking water, toilet facilities and crowd control.

5. *Content of Permit.* The town clerk shall issue the permit, upon receipt of the permit fee. The permit shall specify where the event/assembly will be held and its duration. The permit shall not be transferable.

6. *Fee.* The town board shall establish the sum to be paid for a permit and it shall be listed in the town's fee schedule.

7. *Exceptions.* Transient, temporary, intermittent events/assemblies provided by non-profit organizations at events for a period of not more than one day such as school, religious or charitable fund raising events shall not be subject to the provisions of this section provided any such events otherwise comply with other applicable town ordinances.

8. *Refusal to grant permit, revocation.* The town board may, upon notice and an opportunity for the applicant or permit the holder to be heard, deny any application for or revoke any issued permit upon a finding or determination that such permit should not be granted or should be revoked for cause based upon the health, welfare and safety of the town. Any such determination shall set forth reasons for the denial or revocation of any permit.

#### **Sec. 42.112. Fireworks.**

1. *Adoption of Wis. Stats. § 167.10 by reference.* Wis. Stats. § 167.10 is adopted by reference as though set forth verbatim.

2. *Possession prohibited without a town permit.* No person may possess or use fireworks without a user's permit issued by the town chairman in accordance with the provisions of Wis. Stats. § 167.10(3).

3. *Indemnity bond.* As a precondition for issuing any permit, the town chairman may require an indemnity bond as described in Wis. Stats. § 167.10(3)(e) or other to ensure that the town shall not be held liable for accident or injury occasioned during the transportation, handling, storage, sale or use of the fireworks or pyrotechnic devices.

4. *Fee.* The town board shall establish the fee for the permit, and it shall be listed in the town fee schedule.