

Note: This version of the Code differs from the official printed version as follows:

- a. Dimensions are expressed in numerical format rather than alpha format, e.g., “27 feet” rather than “twenty-seven feet.”
- b. Paragraph indentation style is different.
- c. Unused and blank section numbers are omitted rather than shown as reserved.
- d. Editor’s notes, amendment history, cross references and other editorial enhancements are omitted.
- e. Page numbering is different.

## Chapter 42

### **PUBLIC NUISANCES**

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## ARTICLE I. IN GENERAL

### Sec. 42-1 Definitions

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

*Public nuisance* means a thing, act, occupation, 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.
- (3) Greatly offend the public morals or decency.
- (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.

### Sec. 42-2 Penalty for violation of chapter

Except as otherwise provided, any person found to be in violation of any provision of this chapter shall be subject to section 1-9.

### Sec. 42-3 Nuisance - Erection, continuation, maintenance or permitting

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the town.

### Sec. 42-4 Same - Affecting health

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition of section 42-1:

- (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 buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- (3) Accumulations of garbage, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease carrying insects, rats or other vermin breed.
- (5) All stagnant water in which mosquitoes, flies or other insects can multiply. Garbage cans which are not flytight.
- (6) All noxious weeds, any lawn, grass or weeds on a lot or other parcel of land which lawn, grass or weeds exceed eight inches in height is declared to be a public nuisance and affect the public health and safety and adversely affect the property values of other lands in the town. Property located in a designated floodplain area or wetland area or lying within the right-of-way of any public road shall not be subject to this section. The weed commissioner or designee shall inspect the property and either in person or by certified mail notify the owner, occupant or person in charge about noncompliance with the town's weed, grass or lawn ordinance. The notice will give 48 hours to comply. If the town elects to take care of the cutting because the owner, occupant or person in charge fails to take care of the matter, there will be a statement sent for the expenses the town has acquired, and, if the statement amount is not paid in full within 30 days thereafter, the clerk shall enter the charges in the tax roll as a special tax against the lot or parcel of land. A natural lawn shall include common species of grass and wild flowers native to North America which are designated and purposely cultivated to exceed eight inches in height from the ground. This may occur in a subdivision lot, residential lot or larger acreage at a government program. If natural lawns need to be growth controlled through the burning off process, the owner shall have a permit to burn and also notify the fire department of the burn.

- (7) All animals running at large.
- (8) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the town in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.
- (9) Any use of property, substances or things within the town emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, effluvia or stenches extremely repulsive to the physical senses of ordinary people which annoy, discomfort, injure or inconvenience, the health of any appreciable number of persons within the town.
- (10) All abandoned wells not securely covered or secured from public use.

#### **Sec. 42-5 Same - Offending morals and decency**

The following acts, omissions, places, conditions and things are 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 42-1:

- (1) 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 by article II, chapter 34 of this Code.
- (2) Any place or premises within the town where ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- (3) Any place or premises resorted to for the purpose of drinking intoxicating liquor, fermented malt beverages, illegal drug sales or use in violation of law or ordinance.

#### **Sec. 42-6 Same - Affecting peace and safety**

The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace and safety coming within the provisions of section 42-1:

- (1) All buildings erected, repaired or altered within the fire limits of the town in violation of ordinances relating to materials and manner of construction of buildings and structures.
- (2) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- (3) *Vacant lots.* Vacant lots become a public nuisance when said lots are not maintained. Such is especially true when vacant lots are not graded as to provide for regular routine mowing maintenance.
  - (a) Within 90 days of the acceptance of a platted subdivision by the town, either the developer of the plat or the new lot owner shall cause the vacant lot to be appropriately filled and graded to provide for routine mowing as to maintain a vegetative growth height under 12 inches. All debris is to be removed by the owner within said time period. Presently existing owners of vacant lots shall be granted 21 days to come into compliance with this section after notice of noncompliance.
  - (b) Should any new or existing owner of a vacant lot fail to comply with this section, the town board of supervisors shall authorize the filling and grading of the vacant lot to occur. Any and all costs associated with same if when billed are not paid by the owner by November 15 of any year, shall be placed as an assessment against the property upon the property tax rolls maintained by the town.
  - (c) On lots where permitted agricultural uses as stated in section 62-64 and section 62-65 of this Code are being performed in accordance with acceptable husbandry practices, they shall be exempt from these requirements.

- (4) *Vision corner.* No person shall maintain trees, shrubs, fences, walls, signs, or any other obstructions in the vision control area or road right-of-way which obstruct the necessary view of the driver of a motor vehicle on a public street or private driveway or which interfere with the driver's control. The vision control area is defined as a line connecting points located 100 feet in each direction from where the intersecting roads' inside corners meet.
- (5) *Traffic sign.* Any shrub, tree, or other plant or obstruction which obstructs the view of a traffic sign shall be deemed dangerous to the public travel.
- (6) Town board, by written notice, may order the owner of any private place or premises on which the tree, shrub, or other obstruction stands, which unreasonably encroaches or interferes upon the street and thereby obscures vision of a traffic sign or the vision of a motorist, to take such steps as are necessary to remove the interference.
- (7) If such owner or occupant fails within 14 days of receipt of notice, to take such necessary steps, the town board shall order town employees to remove the interference. The town shall then bill the owner for removal and if unpaid by November 15 of any year, collect the charge as a special tax assessment upon the property in front of the property of whom the order was delivered upon for removal [of] the interference.
- (8) Any person who is an owner or occupant or firm or corporation failing to obey the written notice of the town board as specified in the above foregoing shall, upon conviction, be subject to a fine as established in section 1-9 of the Town Code.

## **Sec. 42-7 Same - Abatement**

### *(a) Property maintenance*

- (1) *Inspection of premises.* Whenever a complaint is made to the town board or the board determines that a public nuisance exists within the town, the building inspector shall be notified thereof and shall forthwith inspect, or cause to be inspected, the premises and shall make a written report of his findings to the town board.
- (2) *Summary abatement*
  - a. If the building inspector determines that a public nuisance exists on private property and that there is a great and immediate danger to the public health, safety, peace, morals or decency, the town board may direct the building inspector to serve notice upon the owner or, if the owner cannot be found, on the occupant or person causing, permitting or maintaining such nuisance and to post a copy of such notice on the premises. Such notice shall direct the owner, occupant or person causing, permitting or maintaining such nuisance to abate or remove such nuisance within the time stated in the notice, and shall further state that unless such nuisance is abated within the time stated in the notice, the building inspector shall cause the nuisance to be abated and shall charge the costs thereof to the owner, occupant or person causing, permitting or maintaining the same. If such costs are not paid within 30 days from the date of billing by the town, the costs shall be assessed against the real estate upon which such nuisance existed and collect as a special assessment against the premises in the same manner as other taxes against real estate are collected.
  - b. If the nuisance is not abated within the time allowed by such notice, or if the owner, occupant or person causing such nuisance cannot be found, the building inspector shall cause the abatement or removal of such nuisance, and the cost, and expense thereof shall be charged and collected as provided in subsection (a)(2)a. of this section.
  - c. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the town or its officials in accordance with law.

(b) *Suspension and revocation of permits and license*

- (1) *By public nuisance.* In the event any owner of property or owner of business in the town creates or maintains a public nuisance for which the property or business has been granted a license or permit by the town, upon a majority vote of the town board, such license or permit may be suspended, revoked, or denied renewal. Any such suspension, revocation, or nonrenewal may be invoked by the town board at such time and subject to such conditions as the town deems appropriate, and alternatively, in the discretion of the town board, may be enforced by bringing action regarding the public nuisance in the Circuit Court of Dodge County. Licenses and permits which are subject to this section involve all licenses and permits issued by the town, included but not limited to, alcoholic beverages issued in accordance with the subject or provisions of Wis. Stats. Ch. 125.
- (2) *Cease operations.* Upon suspension, termination, or nonrenewal, the business and property owner shall immediately cease all operations for which such license permit is required.
- (3) *Notice of suspension.* As a prior condition for the town board to take action for suspension, revocation or nonrenewal, the town clerk shall issue a written notice generally describing the alleged nuisance advising said owner or operator of the next regularly scheduled town board meeting for which an agenda item shall be established to give said owner or operator an opportunity to show cause to the town board why suspension, revocation or nonrenewal should not take place. This notice shall be in writing and may be served by regular mail to either the address of the property or business, or to the last known address of the operator or owner, based upon tax billing records in the town offices or the address shown on the permit or license application.

## **ARTICLE II. RIGHT TO FARM**

### **Sec. 42-41 Purpose of article**

It is the purpose and intent of this article to conserve, protect, and encourage the continued use and improvement of agricultural land in the town for the production of agricultural products. It is the further intent and purpose of this article to preserve the right of farmers using generally accepted agricultural practices to produce agricultural products without unnecessary interference.

### **Sec. 42-42 Applicability of article provisions**

The provisions of this article shall apply to all land use change applications within the town made after the date of the adoption of the ordinance from which this article is derived.

### **Sec. 42-43 Limitation on private action**

- (a) An agricultural use or agricultural practice is not, nor shall it become, a nuisance if the following apply:
  - (1) The agricultural use or agricultural practice is conducted on, or on a public right-of-way adjacent to land that was in agricultural use without substantial interruption prior to the date on which the application to change the land use of the allegedly offended property was made. Land enrolled in a government program for the benefit of agriculture is an agricultural use.
  - (2) The agricultural use or agricultural practice does not present a substantial threat to public health or safety.
- (b) This section shall not apply in the case of a negligent agricultural use or agricultural practice.

### **Sec. 42-44 Notice**

- (a) In all plats and certified survey maps finally approved for recording after the date of the adoption of the ordinance from which this article is derived for lands within the town, the following language shall be included on the document to be recorded: "The Town of Beaver Dam has adopted a "right-to-farm" ordinance. This land division is subject to that ordinance."

- (b) All other land use changes including, by way of illustration and not limitation, conditional use permits, all variances, and all rezoning, granted or adopted after the date of the adoption of the ordinance from which this article is derived shall contain the following written notice: "The Town of Beaver Dam has adopted a "right-to-farm" ordinance. The land to which this land use change applies is subject to that ordinance."