

CHAPTER 10

PUBLIC NUISANCES

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June 1, 1985

10.01 PUBLIC NUISANCES PROHIBITED. No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town.

10.02. PUBLIC NUISANCE DEFINED. A public nuisance is a thing, act, occupation, condition or use of property which continues 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 or the use of public property.

10.03 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 coming within the definition of §10.02:

(1) ADULTERATED FOOD. All decayed, adulterated or unwholesome food or drink sold or offered for sale to the public.

(2) CARCASSES, UNEBURIED. 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) INSECTS OR VERMIN, BREEDING PLACES FOR. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material in which flies, mosquitoes, disease carrying insects, rats or other vermin can breed.

(4) PRIVY VAULTS AND GARBAGE CANS. Privy vaults and garbage cans which are not flytight.

Town of Mishicot
Manitowoc County, Wisconsin

Ordinance No. 10.03(5)
Amending Town of Mishicot Ordinance No. 10.03(5), Entitled, Noxious Weeds

Ordinance No. 10.03(5), Noxious Weeds, is hereby repealed and recreated as follows:

(5) CONTROL OF NOXIOUS WEEDS: The purpose of this ordinance is to provide for the control of noxious weeds in the town, as described in this ordinance in SECTION 3 - DESIGNATION OF NOXIOUS WEEDS.

1) AUTHORITY: The Town Board of the Town of Mishicot, Manitowoc County, Wisconsin, has the specific authority under ss.66.407 and 66.517, Wis. Statutes, and the general authority under its village power under s.60.22. Wis. Statutes, to adopt this ordinance.

2) ADOPTION: This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation of noxious weeds in the town.

3) DESIGNATION OF NOXIOUS WEEDS: The following are designated as noxious weeds in the town:

- a) Canada Thistle
- b) Leafy Spurge
- c) Field Bindweed (creeping Jenny)
- d) Any member of the genus *Lythrum* (purple looserstrife) or hybrids
- e) Multi-flora Rose
- f) Garlic Mustard
- g) Japanese Honeysuckle
- h) Japanese Barberry
- i) Japanese Knotweed
- j) Dame's Rocket
- k) Phragmites
- l) Wild Parsnip
- m) Giant Hogweed
- n) Any other perennial weed having a network of underground roots, rhizomes, stems, or other underground appendages that readily reproduce more plants of rank nature; and
- o) Any annual or biennial whose seed reproduces readily into tall or spreading plants that are undesirable in nature.

The town Chairperson shall include those weeds designated as noxious weeds in the Noxious Weed Notice given annually under s.66.0407(4), Wis. Statutes.

4) PROHIBITED: No person may plant, cultivate, sell, offer for sale, or distribute any noxious weeds or seeds thereof.

5) **DESTRUCTION:** Under 66.0407(3), Wis. Statutes, and this ordinance, a person owning, occupying, or controlling land within the Town of Mishicot shall be required to destroy all noxious weeds on such land.

6) **EXCEPTION:** This chapter does not apply to Canada Thistle or annual noxious weeds that are located on land that the dept of Natural Resources owns, occupies or controls that is maintained in whole or in part as habitat for wild birds by the dept. of Natural Resources.

7) **PENALTY:** Each violation of this section is a separate violation and penalties can be enforced as described in Section 25.04 of the town's General Code.

OR

8) **ABATEMENT:** Abatement of public nuisances may be enforced under Section 10.06(1), (2), (3), (4), (5) and Section 10.07 and Section 10.10 of the towns General Code. The weeds may also be destroyed as provided in section 11 of this ordinance.

9) **TOWN WEED COMMISSIONER:** The Town Chairperson having appointed a town weed commissioner under s.66.0517(2) (a) Wis. Statutes, and the weed commissioner having powers and duties to investigate and destroy noxious weeds in the town as provided in s.66.0517(2) (a) Wis. Statutes, the following provisions are established in regard to the performance of the position of Weed Commissioner:

A. The Weed Commissioner will present to the town board an account of noxious weed investigation and destruction activities performed to accomplish such results. The account shall specify by separate items each activity of investigation and destruction performed and for each activity of destruction the amount chargeable to each piece of land, describing the land along with a total amount time necessary to accomplish the destruction.

B. Compensation for the Weed Commissioner will be determined by the town board and will be listed with other Town employees, with an annual compensation review conducted by the Town Board.

10) **COLLECTION OF COST FOR NOXIOUS WEED DESTRUCTION:** Upon completion of destruction of noxious weeds on a tract of land and a summary report is filed to the town board and approved, the cost for the destruction of noxious weeds shall be collected under ch.74, Wis. Statutes, except in case of lands that are exempt from taxation, railroad lands, or other lands for which taxes are not collected under ch.74, Wis. Statutes.

11) **NOXIOUS WEED DESTRUCTION** (Only for use by towns authorized to exercise Village Powers under s.60.22, Wis. Statutes) The Town of Mishicot shall identify noxious weeds to be destroyed as described in SECTION 3 of this ordinance. Property owners who refuse permission for the town or authorized agency to destroy will be responsible for the destruction of noxious weeds as follows:

A. Under s.66.0407(3) Wis. Statutes, and this ordinance, a person owning, occupying, or controlling land shall destroy all noxious weeds on their land.

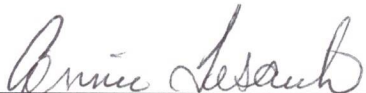
- B. If after publication of the notice required under s.66.0407(4) Wis. Statutes, the town Weed Commissioner or designated Town Officer or employee if there is no Weed Commissioner, shall consult with the town board and determine after investigation of the condition of the lands that the person owning, occupying, or controlling the land have failed to destroy all noxious weeds on the land, the town board may cause to be served upon any of all of those persons a copy of the notice required under s.66.0407(4) Wis. Statutes, together with a statement commanding that the noxious weeds upon the land be destroyed within 30 days of the receipt of the notice or the person shall be subject a forfeiture as provided in the Town of Mishicot Noxious Weed Ordinance. The notice and statement shall be served by registered or certified mail.
- C. Any person upon whom a notice to destroy weeds is served may request a hearing before the town board to challenge the reasonableness of the board's order to destroy weeds. The request shall be in writing and shall be filed with the town clerk on or before the expiration of the time to destroy the weeds as stated in subsection B above. In the event that a request for hearing is filed, the town board shall set a time and place for the hearing, within 7 days after the date the request for hearing is received by the town clerk, and the notice of the time and place of the hearing shall be served upon the person requesting the hearing. No citation of complaint for the recovery of a forfeiture under this ordinance may be issued until the completion of the hearing. Every notice issued under subsection B shall contain a clear statement of the right to request a hearing.
- D. Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance as determined by the town board shall, upon conviction of non compliance, be subject to penalties as described in Section 25.04 of the town code.

12) SEVERABILITY: If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect the other provisions or application of this ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

13) EFFECTIVE DATE: This ordinance is effective upon proper posting and publication as required under s. 60.80, Wis Stats.

Previous Ordinance No. 10.03(5), Noxious Weeds, is replaced with Ordinance No. 10.03(5), Noxious Weeds, dated June 3, 2024.

This Ordinance was adopted at a properly noticed public meeting of the Mishicot Town Board on June 3, 2024, by motion of the board and passed unanimously.

Attest: 
Town Clerk

Posted June 4, 2024: Good Times, Mishicot Town Hall, Eis Implement
Town website: www.townofmishicot.org

Published: June 10, 2024, Herald Times Reporter

Para. (5) Repealed + Recreated 6/10/24

PUBLIC NUISANCES 10.03(5)

(5) WEEDS, NOXIOUS. All noxious weeds and other rank growth of vegetation. All weeds and grass shall be kept cut to a height not to exceed one foot.

(6) POLLUTION, WATER. 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.

(7) POLLUTION, STREET. Any use of property which causes any noxious or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Town.

(8) ANIMALS, LOOSE. Any animals running at large in the Town.

10.04 PUBLIC NUISANCES 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 or safety coming within the definition of §10.02:

(1) ILLEGAL BUILDINGS. All buildings erected, repaired or altered in violation of Town ordinances relating to materials and manner of construction of buildings and structures within the Town.

(2) OBSTRUCTION OF INTERSECTIONS. 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.

(3) LOW-HANGING TREE LIMBS. All limbs of trees which project over and less than 10' above any public sidewalk, street or other public place.

(4) DANGEROUS TREES. All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.

(5) FIREWORKS. All use or display of fireworks except as provided by State laws and Town ordinances.

(6) DILAPIDATED BUILDINGS. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human use.

(7) LOW-HANGING WIRES AND CABLES. All wires and cables over streets, alleys or public grounds which are strung less than 15' above the surface thereof.

(8) NOISY ANIMALS OR FOWL. The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises, greatly annoys or disturbs a neighborhood or any considerable number of persons within the Town.

(9) OBSTRUCTIONS OF STREETS; EXCAVATIONS. All obstructions of streets, alleys, sidewalks or crosswalks, and all excavations in or under the same, except as permitted by the ordinances of the Town, but including those 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 or which do not conform to the permit.

(10) UNLAWFUL ASSEMBLIES. Any unauthorized or prohibited 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.

(11) BLIGHTED BUILDINGS AND PREMISES. (a) Premises existing within the Town which are blighted because of faulty design or construction, failure to maintain them in a proper state of repair, improper management or due to the accumulation thereon of junk or other unsightly debris, structurally unsound fences and other items which depreciate property values and jeopardize or are detrimental to the health, safety, morals or welfare of the people of the Town.

(b) Blighted premises contribute to conditions that are dangerous to the public health, safety, morals and general welfare of the people; the conditions necessitate excessive and disproportionate expenditure of public funds for public health, and safety, crime prevention, fire protection and other public services; such conditions cause a drain upon public revenue and impair the efficient and economical exercise of governmental functions in such areas.

(c) Elimination of blighted premises and prevention of blighted premises in the future is in the best interest of the citizens and shall be fostered and encouraged by this section. It is essential to the public interest that this section be liberally construed to accomplish the purposes of this subsection.

10.05 BURNING RESTRICTED. (1) BURNING PERMIT REQUIRED. No person shall set a fire within the Town unless such person shall first obtain a burning permit from the Town Board or its designee and certify to the Town Board or its designee that any open burning shall be contained in a fire pit or container. The Town Board shall specify the information to be included in a burning permit.

(2) EXCEPTIONS TO BURNING PERMIT. Notwithstanding the provisions of sub. (1), no permit shall be required in the following circumstances:

(a) Burning rubbish for household purposes in a barrel, trash can or other enclosed burning container, provided such container is adequately covered to prevent burning material or embers from escaping the burning container.

(b) Setting a fire for purposes of warming the person or cooking food under life threatening circumstances.

(c) Setting a recreational bonfire in a fire pit or container primarily for entertainment purposes.

(3) In no event shall a burning permit be issued for burning within the Town dump except to specifically authorized persons by the Town Board for Town purposes.

10.06 ABATEMENT OF PUBLIC NUISANCES. (1) ENFORCEMENT. The Constable, Fire Chief, Building Inspector and Health Officer shall enforce those provisions of this chapter that come within the jurisdiction of their offices; and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.

(2) SUMMARY ABATEMENT. If the inspecting officer determines that a public nuisance exists within the Town and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Chairman may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(3) ABATEMENT AFTER NOTICE. If the inspecting officer determines that a public nuisance exists on private premises but that such nuisance does not threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within 10 days. If such nuisance is not removed within 10 days, the proper officer shall cause the nuisance to be removed as provided in sub. (2).

(4) OTHER METHODS NOT EXCLUDED. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Town or its officials in accordance with the laws of the State.

(5) COURT ORDER. Except when necessary under sub. (2), an officer hereunder shall not use force to obtain access to private property to abate a public nuisance, but shall request permission to enter upon private property if such premises are occupied and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.

10.07 COST OF ABATEMENT. In addition to any other penalty imposed by this chapter 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.

10.10 PENALTY. Any person who shall violate any provision of this chapter, or any regulation, rule or order made hereunder, or permit or cause a public nuisance, shall be subject to a penalty as provided in §25.04 of this General Code.