

CHAPTER 12
Public Nuisances
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CHAPTER 12

Public Nuisances

12.01.000 PUBLIC NUISANCES PROHIBITED. No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the City of Port Washington.

12.02.000 DEFINITIONS.

12.02.010 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:

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.

12.02.020 Public Nuisances Affecting Health. The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances coming within the definition of 12.02.010:

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 or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
4. All stagnant water in which mosquitoes, flies or other insects can multiply.
5. Privy vaults and garbage cans which are not fly-tight.
6. All noxious weeds and other rank growth of vegetables.
7. All animals running at large.
8. 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.
9. Any use of property, substances, or things within the City 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.

10. 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.

12.02.030 Public Nuisance 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 definitions of subsection (1) 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, promiscuous sexual intercourse or gambling.
2. All gambling devices and slot machines.
3. 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.
4. Any place or premises within the City where City ordinances or State laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
5. 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.

12.02.040 Public Nuisances Affecting Peace and Safety. The following acts, omissions, places, conditions and things are hereby 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 provisions of subsection (1) of this section:

1. All signs and billboards, awnings and other similar structures over or near streets, sidewalk, public grounds, or places frequented by the public, so situated or constructed as to endanger the public safety.
2. All buildings erected, repaired or altered within the City 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.
3. 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.
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 limbs of trees which project over and less than 10 feet above the surface of a public sidewalk or street or other public place.

6. All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the City.
7. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
8. All wires over streets, alleys, or public grounds which are strung less than 18 feet above the surface thereof.
9. All loud, discordant and unnecessary noises or vibrations of any kind.
10. 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.
11. All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
12. All abandoned refrigerators, iceboxes or other containers which have airtight doors from which the doors and 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 and sidewalks.
14. Repeated or continuous violations of the ordinances of the City or laws of the State of Wisconsin relating to the storage of flammable liquids.

12.03.000 EMISSION OF SMOKE AND OTHER NOXIOUS FUMES.

12.03.010 Definitions. The following definitions cover the intended use of these words in this section:

1. Person. Any individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, department, bureau, agency, or any other entity recognized by law as the subject of rights and duties.
2. Chart. The Ringelman Chart with instructions for use as published by the U. S. Bureau of Mines.
3. Dust. Gas-borne or other particles larger than one micron in mean diameter.
4. Fumes. Gases or vapors that are of such character as to create an uncleanly, destructive, offensive or unhealthy condition.
5. Open Fire. Any fire wherein the products of combustion are emitted into the open air and are not directed thereto through a stack or chimney.
6. Smoke. Small gas-borne particles consisting essentially of carbonaceous material in sufficient number to be observable.
7. Soot. Agglomerated particles consisting essentially of carbonaceous material.
8. Stack or Chimney. Flue, conduit, or opening arranged for emitting gases into the open air.

12.03.020 Emission of Smoke and Fumes. No person shall cause, permit or allow the escape from any smoke stack, chimney, building or open fire, locomotive, steamship or tug within the corporate limits of the City, or within one mile therefrom, into the open air of such quantities of smoke, ash, dust, soot, cinders, acid, or other fumes, dirt or other material or noxious gases in such place or manner as to cause injury detriment or nuisance to any person or to the public, or to endanger the health or safety of any person or the public, or in such manner as to cause injury or damage to business or property, and such is hereby declared to be a public nuisance. The emission of smoke of 40% or greater density, as determined by the “Ringleman” chart, (40% density corresponding to number 2 on said chart), shall be considered prima facie evidence of such a nuisance except for a period not exceeding 6 minutes in any one hour during which time the fire box is cleaned out or a new fire box is being built therein.

12.03.030 Emission of Other Noxious Materials. No person shall cause, suffer, or allow to be produced or emitted into the open air, from any premises, within the City, of dust, fly ash, soot, cinders, sawdust, or waste particles from any manufacturing process, such as mineral wool, lint, saw dust, coal dust, grease or paint.

12.03.040 Fire Chief to Enforce. The Fire Chief shall enforce the provisions of subsections (1) through (3).

12.03.050 Steam Boilers and Furnaces. A. Construction and Alteration. No person shall construct, alter or repair any steam stationary plant boiler or furnace within the City without obtaining from the Building Inspector a permit for that purpose. He shall furnish to the Building Inspector a written statement giving the style and dimensions of such steam plant, boiler or furnace, together with the height and size of any stack or chimney and the method or device to be used for the prevention of the emission of dense smoke therefrom, and if the matter mentioned in said application and statement be approved by the Building Inspector he shall issue a permit for the construction of such steam plant, boiler, or furnace upon payment of the following fees:

1. For permits for the erection, repair or alteration of, or addition to any furnace or other fuel burning equipment, the furnace volume of which does not exceed 100 cubic feet or equivalent, or any refuse burning device, for each unit \$1.00;
2. For permits for the erection, installation, reconstruction, repair or alteration of, or addition to, any furnace or other fuel burning equipment, the furnace volume of which is greater than 100 cubic feet, for each unit \$1.00 per thousand dollars of estimated cost up to \$20,000, thereafter 50¢ per thousand dollars of cost.

B. Report of Accidents Required. All accidents to stationary steam boilers, furnaces and smoke preventing devices, shall be reported to the Building Inspector in writing, giving the nature of the accident and the time required the same.

12.04.000 ABATEMENT OF PUBLIC NUISANCE.

12.04.010 Enforcement. It shall be the duty of the Chief of Police, Fire Chief, Building Inspector and Health Officer to 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 shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does in fact exist.

12.04.020 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 officer having the duty of enforcement shall cause the abatement or removal of such public nuisance.

12.04.030 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, he shall file a written report of his findings with the Mayor who, upon direction of the Common Council, shall cause an action to abate such nuisance to be commenced in the name of the City in the Circuit Court in accordance with the provisions of Chapter 280, Wisconsin Statutes.

12.04.040 Other Methods Not Excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the State of Wisconsin.

12.05.000 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 City 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.

12.06.000 JUNKED VEHICLE, DISPOSAL OF. A. No disassembled, or inoperable and unlicensed, and no junked or wrecked motor vehicle shall be stored or allowed to remain in the open upon public or private property within the City for a period in excess of 2 days unless it is in connection with an automotive sales or repair business enterprise located in a properly zoned area.

B. Whenever the Chief of Police shall find any such vehicle placed or stored in the open upon public property within the City, he shall cause such vehicles to be removed by junk or salvage yard and stored in such junk or salvage yard for a period of 30 days, at the end of which time such junk or salvage yard shall dispose of such vehicle, unless previously claimed by the owner.

C. Whenever the Chief of Police shall find such vehicles placed or stored in the open upon private property within the City, he shall notify the owner of the property upon which such vehicles are placed or stored of the intention of the City to remove such vehicles immediately. If such vehicles are not removed within 3 days, the Chief of Police shall cause vehicles to be removed, the cost of such removal to be charged to the property from which they are removed, which charges shall be entered as a special charge on the tax roll.

D. If such vehicles are claimed by the owner, the junk or salvage yard shall charge a reasonable fee for handling and storage.

E. The provisions of this section shall not apply to auto salvage yards and/or junk yards that are duly licensed under the ordinance provisions of the City of Port Washington pertaining to such operation.

12.07.000 PENALTY. Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Section 25.04 of this Code.

12.08.000 JUNKED VEHICLES.

12.08.010 Definition. The following definitions shall apply in the interpretation and enforcement of this ordinance.

1. “**Vehicle**” shall mean any motor vehicle, trailer, semi-trailer or mobile home.
2. “**Street or Highway**” shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
3. “**Property**” shall mean any real property within the City which is not a street or highway, as defined above.

12.08.020 A. Abandonment of Vehicles Prohibited. No person shall leave unattended on any public highway or any public or private property in the City any motor vehicle, trailer, semi-trailer or mobile home as defined in Sec. 340.01, Wis. Stats., whether or not registered under Ch. 341, Wis. Stats., for such time and under such circumstances as to cause it reasonable to appear abandoned.

B. Presumption of Abandonment.

1. Unattended Vehicles. Any such vehicle left unattended for more than 48 hours on any public highway or property or on any private property where parking is prohibited or restricted, without the permission of the authority or owner in charge thereof, is deemed abandoned and constitutes a public nuisance.
2. Inoperable and Unregistered Vehicles. Any such vehicle which is disassembled, dismantled, inoperable, wrecked or unregistered and any parts thereof stored or remaining in the open on any public highway or property, or on any private property not utilized as a vehicle junk or salvage yard permitted under this Code may be determined by the Police Department to be abandoned and to constitute a public nuisance.
3. Enclosed and Covered Vehicles. This subsection does not apply to such vehicles located on private property, not in violation of this Code, if enclosed completely in a building or other storage place or if covered completely by a car cover or tarpaulin.

C. Exemption. Any owner or operator of a registered vehicle which becomes disabled or inoperable for any reason, who is unable to remove it from a highway or public property not a prohibited or restricted parking area, shall notify the Police Department within 12 hours of such occurrence of the location of the vehicle and transfer and deliver clear title to the vehicle to the City together with towing costs for junking the vehicle, and thereupon shall be exempt from the provisions of this section. When so requested by the owner or operator, the Chief of Police is authorized to remove and junk such vehicle directly from its location.

D. Impoundment of Abandoned Vehicles. Any vehicle found abandoned in violation of this section shall be impounded by the Police Department until reclaimed or disposed of under Section 12.08.030 below, except if the Chief of Police determines that the towing costs and storage charges for the impoundment would exceed the value of the vehicle, it may be disposed of by private sale or junked by the Chief of Police directly from its location and prior to the expiration of the impoundment period unless the vehicle is stolen or otherwise needed for evidence or other reason. All substantially complete vehicles in excess of 19 model years of age shall be disposed of in accordance with Section 12.08.030 below.

12.08.030 Disposal of Abandoned Vehicles.

A. Reclamation of Vehicles. Any vehicle abandoned in violation of this section and impounded shall be retained in storage for a minimum of 10 days after notice by certified mail has been sent to the owner as defined in Sec. 340.01, Wis. Stats., and to any secured party of record of their right to reclaim it upon payment of the towing cost and accrued storage charges. Such notice shall contain the information set forth in Sec. 342.40, Wis. Stats.

B. Vehicles Not Reclaimed. Any vehicle not reclaimed by the owner of lien holder under paragraph (1) above may be disposed of by sealed bid or auction sale in accordance with Sec. 342.40, Wis. Stats., except if the Chief of Police determined that the value of the vehicle is \$500.00 or less, it may be disposed of by private sale or junked by the Chief of Police. A list of vehicles to be sold shall be made available by the Chief of Police to any interested person or organization upon request.

C. Removal of Vehicles; Forfeiture of Interest. The purchaser of any vehicle sold under this subsection shall have 10 days after the sale date to remove it from storage and shall pay a reasonable storage charge for each day it remains in storage after the second business day subsequent to the sale date. The purchaser shall forfeit all interest in the vehicle, and it shall be deemed to be abandoned and may be sold again, if it is not removed within 10 days after the sale date.

D. Title to Vehicles. Upon sale of an abandoned vehicle under this subsection, the Chief of Police shall furnish the purchaser with a completed form designed by the State Department of Transportation enabling the purchaser to obtain a regular certificate of title. Within 5 days after the sale or disposal of a vehicle under this subsection or Section 12.08.020 (D) above, the Chief of Police shall advise the department of its disposition on a form supplied by the department.

E. Claims Barred; Exception. The sale of a vehicle under this subsection or Section 12.08.020 (D) above shall bar forever all prior claims thereto and interest therein except that, at any time within 2 years after the sale, any person claiming ownership or another financial interest in such vehicle may present a claim to the Council setting forth any facts necessary to establish the ownership or interest and to demonstrate that failure to reclaim the vehicle prior to sale was excusable neglect. The Council may allow such claim only to the extent of the claimant's interest in the vehicle and in an amount not to exceed the proceeds of the sale.

12.08.040 Inventory Required. The Police Department shall maintain, for a period of six (6) years from the date of the applicable disposition, an inventory of all vehicles disposed of under this section, whether by sealed bid, auction sale, private sale or junking, including the dates and methods of disposal, the consideration received for the vehicles, if any, and the names and addresses of the persons taking possession of the vehicles.

12.08.050 Owner Liability. The owner of any abandoned vehicle except a stolen vehicle is responsible for the abandonment and is liable for the costs of any charges of its impoundment and disposal. Costs and charges not recovered from its sale may be recovered by the City in a civil action against the owner.

12.09.000 REMOVAL OF ILLEGALLY PARKED VEHICLES.

12.09.010 Hazard to Public Safety. Any vehicles parked, stopped or standing upon a street or highway in the City of Port Washington in violation of any of the provisions of Section 8.05, 12.06, 12.08, or this Section, 12.09 of this Code is declared to be a hazard to traffic and public safety.

12.09.020 Removal by Operator. Such vehicle shall be removed by the operator in charge, upon request of any traffic officer, to a position where parking is permitted or to a private or public parking or storage premises.

12.09.030 Removal by Traffic Officer. Any traffic officer after issuing a ticket-citation for illegal parking, stopping, or standing of an unattended vehicle in violation of this code, is authorized to remove such vehicle to a position where parking is permitted.

12.09.040 Removal by Private Service. The officer may order a motor carrier holding a permit to perform vehicle-towing services to remove and store such vehicle in any public storage garage or rental parking grounds or any facility of the person providing the towing services.

12.09.050 Towing and Storage Charges. In addition to other penalties provided in this code, the owner or operator of a vehicle so removed shall pay reasonable cost of moving, towing and storage. If the vehicle is towed and stored by a motor carrier, actual charges regularly paid for such services shall be paid.