

**ORDINANCE NO. 2019-1382**

CHAPTER 10

PUBLIC NUISANCES

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

**10.02 PUBLIC NUISANCE DEFINED.** 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.

**10.03 PUBLIC NUISANCES AFFECTING HEALTH.** The following facts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definitions of sec. 10.02 of this chapter:

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

(2) **UNBURIED CARCASSES.** Carcasses of animals, birds or fowl not intended for human consumption, or foods which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.

(3) **BREEDING PLACES FOR VERMIN, ETC.** 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) **STAGNANT WATER.** All stagnant water in which mosquitoes, flies or other insects can multiply.

(5) **PRIVY VAULTS AND GARBAGE CANS.** Privy vaults and garbage cans which are not fly tight.

(6) **ANIMALS.** All animals running at large.

(7) **AIR POLLUTION.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the City limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.

(8) NOXIOUS WEEDS (Am. Ord. #1133). All noxious weeds, as defined in §66.0407(1), Wis. Stats. In addition, other rank growth of vegetation, and all weeds, grasses, lawns and plants over 6 inches in height, excluding trees and shrubs, which:

- (a) Detract from the surrounding area and properties.
- (b) Become a possible fire hazard, as determined by the Fire Chief.
- (c) Become a health hazard due to their pollen or a potential cover for disease-carrying rodents and other small animals.
- (d) Are of infectious or poisonous nature in or adjacent to a populated area, regardless of height.
- (e) Become a potential hazard to vehicular traffic in vision clearance triangles.

(9) WATER POLLUTION. 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.

(10) NOXIOUS ODORS, ETC. 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 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.

(11) STREET POLLUTION. 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) PESTICIDE APPLICATION. The application, or causing of the application, of any pesticide, as defined in §94.67(25), Wis. Stats., in such a manner as to endanger the health of persons within the City.

**10.04 PUBLIC NUISANCES 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 definition of sec. 10.02 of this chapter.

(1) DISORDERLY HOUSES. 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) GAMBLING DEVICES. All gambling devices and slot machines, as defined in Wis. Stat. §945.01(3).

(3) UNLICENSED SALE OF LIQUOR AND BEER. 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 this Code.

(4) CONTINUOUS VIOLATION OF CITY ORDINANCES. 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) ILLEGAL DRINKING. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of State laws or this Code.

**10.05 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 definition of sec. 10.02 of this chapter:

(1) SIGNS, BILLBOARDS, ETC. 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 safety.

(2) ILLEGAL BUILDINGS. All buildings erected, repaired, altered or maintained in violation of the provisions of this Code relating to materials and manner of construction of buildings and structures within the City.

(3) UNAUTHORIZED TRAFFIC SIGNS. All unauthorized signs, signals, markers 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 device, sign or signal.

(4) 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.

(5) TREE LIMBS. All limbs of trees which project over and less than 8 feet above any public sidewalk or less than 14 feet above a street or other public place.

(6) DANGEROUS TREES. All trees which are injurious to public health or safety because of a diseased or damaged condition, and the storage of cut elm wood, unless such wood is debarked or sprayed with an effective elm bark beetle destroying insecticide, and the storage of cut wood infested with the emerald ash borer.

(7) FIREWORKS. All use, possession or display of fireworks except as provided by the laws of the State and ch. 9 of this Code.

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

(9) WIRES AND CABLES OVER STREETS. All wires and cables over streets, alleys or public grounds which are strung less than 18 feet above the surface thereof.

(10) 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, shall greatly annoy or disturb a neighborhood or any considerable number of persons within the City.

(11) OBSTRUCTIONS OF STREETS; EXCAVATIONS. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by this Code or which, although made in accordance with this Code, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or do not conform to the permit.

(12) SNOW, ICE AND DEBRIS REMOVAL. All debris not removed, and all snow and ice not removed or sprinkled with salt, ashes, sawdust or sand, as provided in ch. 8 of this Code.

(13) REFRIGERATORS. All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.

(14) OPEN PITS, BASEMENTS, ETC. All open and unguarded pits, wells, excavations and basements.

(15) FLAMMABLE LIQUIDS VIOLATIONS. Repeated or continuous violations of this Code or the laws of the State relating to the storage of flammable liquids.

**10.06 JUNK, CERTAIN VEHICLES, RECREATIONAL EQUIPMENT AND FIREWOOD.** (1) PUBLIC NUISANCES DECLARED. The following are hereby declared to be public nuisances wherever they may be found within the City.

(a) Any motor vehicle, truck body, tractor or trailer as enumerated in subs. (3) and (4) below and defined in sub. (2)(a), (b) and (c) below.

(b) Any junk stored contrary to sub. (5) below.

(c) Any recreational equipment stored contrary to sub. (6) below.

(d) Any firewood used or stored contrary to sub. (7) below.

(2) DEFINITIONS. The words, phrases and terms used in this section shall be interpreted as follows:

(a) Disassembled, Inoperable, Junked or Wrecked Motor Vehicles, Truck Bodies, Tractors, Trailers. Motor vehicles, truck bodies, tractors or trailers in such state of physical or mechanical ruin as to be incapable of propulsion or being operated upon the public streets or highways.

(b) Unlicensed Motor Vehicles, Truck Bodies, Tractors or Trailers. Motor vehicles, truck bodies, tractors or trailers which do not bear lawful current license plates.

(c) Motor Vehicle. As defined in §340.01(35), Wis. Stats.

(d) Junk. Worn out or discarded material of little or no value including, but not limited to, household appliances or parts thereof, machinery and equipment or parts thereof, vehicles or parts thereof, tools, discarded building materials or any other unsightly debris, the accumulation of which has an adverse effect upon the neighborhood or City property values, health, safety or general welfare.

(e) Recreation Equipment. Boats, canoes, boat and utility trailers, mobile homes, campers, off-highway vehicles and snowmobiles.

(f) In the Open. Land which may be viewed from public streets or adjoining property.

(3) STORAGE OF INOPERABLE VEHICLES, ETC. (a) Restricted. No person shall accumulate, store or allow any disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors or trailers in the open upon any public or private property in the City for a period exceeding 10 days.

(b) Exceptions. 1. Any business engaged in automotive sales or repair located in a properly zoned district.

2. Junk yards licensed under ch. 12 of this Code.

(4) STORAGE OF UNLICENSED VEHICLES, ETC. (a) Restricted. No person shall accumulate, store or allow any unlicensed motor vehicle, truck body, tractor or trailer in the open upon any public or private property in the City for a period exceeding 10 days.

(b) Exceptions. 1. Any business engaged in the sale, repair or storage of such unlicensed vehicles in a properly zoned district.

2. Garden tractors and mowers may be stored in the rear yard not less than 10 feet from any property line.

(5) STORAGE OF JUNK PROHIBITED. No person, except a junk dealer licensed under ch. 12 of this Code, shall accumulate, store or allow any junk outside of any building on any public or private real estate located in the City.

(6) STORAGE OF RECREATIONAL EQUIPMENT REGULATED. No person shall store any recreational equipment on any street right of way or within the front setback for a period of more than 48 hours.

(7) STORAGE OF FIREWOOD. (a) Regulated. No person shall store firewood on any residential premises except for use on the premises. No firewood pile may be located within the front setback.

(b) Exception. Any firewood pile located contrary to the provisions of par. (a) above on the effective date of this subsection need not be moved to a place of compliance until June 1, 1987.

(8) VARIANCE. (a) Application. In the event any person shall encounter great practical difficulty in complying with the provisions of subs. (6) or (7) above because of lot size, location of buildings or topography, such person may file an application for a variance with the Building Inspector on a form supplied by the Inspector.

(b) Limitations. Any variance granted by the Building Inspector shall be limited, as follows:

1. Recreation Vehicles. Recreation vehicles may be parked in the driveway within the front setback between May 1 and September 15 of each year, provided that the sidewalk is not blocked.

2. Firewood. Firewood may be neatly stacked within the front setback between August 1 and June 1 of the next year.

(c) Grant or Denial of Application. The Building Inspector shall review the application and view the premises. He shall grant or deny the variance in accordance with the provisions of this subsection.

(d) Appeal. Any person aggrieved by any determination of the Building Inspector under this subsection may file a written appeal with the Council within 30 days.

(9) ISSUANCE OF CITATION; ACTION TO ABATE. Whenever the Building Inspector or the Police Chief shall find any such vehicle, junk or recreational equipment, as defined in sub. (2) above, accumulated, stored or remaining in the open upon any property within the City contrary to the provisions of subs. (3), (4), (5) and (6) above, or firewood stored contrary to sub. (7) above, he shall notify the owner of said property on which such vehicle, junk, recreation equipment or firewood is located of the violation of this section. If such vehicle, junk, recreational equipment or firewood is not removed within 10 days, the Building Inspector or the Police Chief shall cause a citation to be issued to the property owner or the occupant of the property upon which such vehicle, junk, recreational equipment or firewood is located. In addition, action to abate such nuisance may be commenced, as provided in sec. 10.07 of this chapter.

(10) PENALTY. Any person who shall be adjudicated to have violated any of the provisions of this section shall be subject to a forfeiture as provided in sec. 25.04 of this Code plus the costs of said prosecution and, upon default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not to exceed 10 days. Each day that a violation of this section continues shall be deemed a separate offense.

**10.07 ABATEMENT OF PUBLIC NUISANCES. (1) ENFORCEMENT.** It shall be the duty of the Chief of Police, the Fire Chief, the Building Inspector, the City Forester and the Health Officer to enforce those provisions of this chapter that come within the jurisdiction of their respective offices, including the issuance of citations, 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.

(2) 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 shall 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.

(3) 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 serve notice on the person causing or maintaining the nuisance and the owner of the property to remove the same within 10 days. If such nuisance is not removed within 10 days, he shall report such fact to the Mayor, who may direct the City Attorney to commence an action in Circuit Court for the abatement of the nuisance.

(4) 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, nor as prohibiting an action to be commenced in the Circuit Court seeking a forfeiture as provided in sec. 10.15 of this chapter.

(5) 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.

**10.08 WEED CONTROL** (Rep. & Recr. Ord. #971). (1) NOXIOUS WEEDS, AGRICULTURAL DISTRICT. Every owner of land within the City located in an A-G Agricultural District under the Zoning Code shall destroy all noxious weeds, as defined in §66.0407(1), Wis. Stats., on such land.

(2) NOXIOUS WEEDS AND RANK GROWTH PROHIBITED. No owner or occupant of any lot or parcel located in any zoning district other than an A-G Agricultural District shall allow such property to become overgrown with any weeds or grass so as to constitute a public nuisance, as defined in sec. 10.03(8) of this chapter.



(3) NOTIFICATION. The Mayor shall, annually, on or before May 15, publish a Class II notice, under Ch. 985, Wis. Stats., that every person is required by law to destroy all noxious weeds on land in the City which such person owns, occupies or controls, and every person who owns, occupies or controls land not located in an A-G Agricultural District under the Zoning Code is required by law to destroy all noxious weeds and other rank growth of vegetation, as defined in sec. 10.03(8) of this chapter, on such land.

(4) ENFORCEMENT (Am. Ord. #1044). If a property owner fails to control the growth of such weeds or rank growth of vegetation on his property, the Weed Commissioner shall serve upon him notice as to this fact. If such owner fails to abate this nuisance within 5 days after service of the notice, the Weed Commissioner shall take action to abate such public nuisance. In addition, such owner shall, upon conviction of such violation, be subject to a penalty of \$50. In the event that the Weed Commissioner, in the exercise of reasonable judgment, determines that said nuisance cannot be abated without risk of damage to City mowing machinery, the owner shall, upon conviction, be subject to a penalty of \$100. Upon a second or subsequent occurrence of failure to control the growth of weeds or rank vegetation in a calendar year, the Weed Commissioner may take action to abate the nuisance without prior notice to the property owner.

(5) COSTS. If the City causes a nuisance to be removed as provided in sub. (4) above, the actual cost thereof, together with an administrative fee equal to 10% of the actual cost, shall be charged to the property owner. If such charges are not paid by November 15 of the year in which they are billed, such charges, together with an additional administrative fee for collection equal to 10% of the total of such charges and fees, shall be extended on the next succeeding tax roll as a tax charged against the property affected and collected in the same manner as are other taxes, pursuant to §66.0517, Wis. Stats.

**10.09 DISEASED AND INFECTED TREE CONTROL.** (1) PUBLIC NUISANCES DECLARED. The following are hereby declared to be public nuisances wherever they may be found within the City.

(a) Any living or standing tree or part thereof infected with Dutch Elm disease, emerald ash borer or other tree diseases.

(b) Any dead, diseased or infected tree or part thereof, including logs, branches, stumps, firewood or other material from which the bark has not been removed and burned or sprayed with an effective fungicide or insecticide.

(2) NUISANCES PROHIBITED. No person shall permit any public nuisance, as defined in sub. (1) above, to remain on any premises owned or controlled by him within the City.

(3) INSPECTION. The City Forester may enter upon private premises at all reasonable times for the purpose of carrying out any of the provisions of this section.

(4) ABATEMENT OF DISEASE NUISANCES. (a) Whenever the City Forester shall find, with reasonable certainty on examination or inspection, that any public nuisance, as defined in this section, exists within the City, he shall cause it to be sprayed, removed, burned or

otherwise abated in such manner as to destroy or prevent as fully as possible the spread of the disease fungus or the insect pests or vectors known to carry such disease.

(b) Before abating any such nuisance on private premises or in any terrace strip between the lot line and the curb, the Forester shall proceed as follows:

1. If the Forester shall determine that danger to other trees from said nuisance is not imminent, he shall make a written report of his findings to the Council, who shall proceed as provided in §27.09(4), Wis. Stats.

2. If the Forester shall determine that danger to other trees within the City is imminent, he shall notify the owner or abutting owner of the property on which such nuisance is found, in writing, if he can be found, otherwise by publication in a newspaper of general circulation in the City that the nuisance must be abated as directed in the notice within a specified time, which shall not be less than 10 days from the date of such notice unless the Forester shall find that immediate action is necessary to prevent spread of infection. If the owner fails to comply with the notice within the time limited, the Forester shall cause the abatement thereof.

(c) No damage shall be awarded to the owner for destruction of any tree, wood or material or any part thereof pursuant to this section.

(5) **SPRAYING OF TREES.** (a) Whenever the Forester shall determine that any tree or material within or near the City is infected with a disease, he may cause to be sprayed all trees within a 1,000 foot radius thereof with an effective spray, provided such spraying shall be performed prior to July 15 or after October 15 of any year.

(b) Before causing the spraying of any tree on private property in accordance with this section, the Forester shall notify the owner, as provided in sub. (4)(b)2. above.

(6) **ASSESSMENT OF COSTS OF ABATEMENT AND SPRAYING.** (a) The entire cost of abating any public nuisance, as defined in sub. (2) above, or of spraying any tree in accordance with sub. (4) above may be charged to and assessed against the parcel or lot abutting on the street, alley, boulevard or parkway upon or in which such tree is located or the parcel or lot upon which such tree stands in accordance with §66.0627, Wis. Stats.

(b) The Forester shall keep strict account of the costs of work done under this section and shall report monthly to the Clerk-Treasurer all work done for which assessments are to be made, stating and certifying the description of the land, lots, parts of lots or parcels of land and the amounts chargeable to each. The Clerk-Treasurer shall include in his report to the Council the aggregate amounts chargeable to each lot or parcel so reported, and such amounts shall be levied and assessed against such parcels or lots in the same manner as other special taxes.

**10.10 CONTROL OF TREES AND SHRUBS OVER PUBLIC WAYS.** (1) **TRIMMING REQUIRED.** The owner or occupant of any private property shall not permit any tree, bush, hedge or shrub to intrude onto a public street or sidewalk from such adjacent private property, nor shall such owner or occupant permit boughs or branches to overhang such public

ways at a height of less than 8 feet over the sidewalk or at a height of less than 14 feet over the street.

(2) NOTIFICATION. The City Forester shall, during June of each year, publish a notice that every person is required to control trees and shrubs over public ways on land in the City which he occupies or owns.

(3) ENFORCEMENT. If an occupant or owner fails to comply with the provisions of sub. (1) above, the City Forester shall serve upon such occupant or owner, personally or by certified mail, notice as to this fact. If such occupant or owner fails to abate this nuisance within 10 days after service of the notice, the Forester shall take action to abate such public nuisance.

(4) COSTS. If the City causes a nuisance to be removed as provided in sub. (3) above, the actual cost thereof, together with an administrative fee equal to 10% of the actual cost, shall be charged to the occupant. If such charges are not paid by November 15 of the year in which they are billed, such charges, together with an additional administrative fee for collection equal to 10% of the total of such charges and fees, shall be extended on the next succeeding tax roll as a special charge for current services against the property affected and collected in the same manner as are other taxes, pursuant to §66.0627, Wis. Stats.

**10.11 DEPOSIT OF MATERIALS IN MINE SHAFTS OR AREAS OF SUBSIDENCE** (Cr. Ord. #1285). (1) No person shall deposit, fill or otherwise place any garbage, trash, junk or other material within any mine shaft or other subsidence as defined under §107.30(21), Wis. Stats., except as expressly permitted by the Director of Public Works and/or the Department of Natural Resources.

(2) It shall be the responsibility of any owner of property on which a mine shaft or other area of subsidence is found to inform the Director of Public Works of the location of the mine shaft or area of subsidence immediately upon the discovery of such mine shaft or other area of subsidence.

(3) Any person violating this section shall forfeit not less than \$10 nor more than \$200, together with the cost of prosecution.

**10.12 CLEANUP OF CLANDESTINE DRUG LAB SITES AND CHEMICAL DUMP SITES.**

(1) GENERAL PROVISIONS. The purpose of this section is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals or residue from a suspected clandestine drug lab site or chemical dump site may exist. Professional reports, based on assessments, testing and investigations, show that chemicals used in the production of illicit drugs can condense, penetrate, and contaminate surfaces, furnishings, and equipment of surrounding structures. The City Board finds that such sites, and the personal property within such sites, may contain suspected chemicals and residues that place people, particularly children or adults of child bearing age, at risk when exposed through inhabiting or visiting the site or using or being exposed to contaminated personal property.

(2) INTERPRETATION AND APPLICATION. In the interpretation and application

of this section, the provisions herein shall be construed to protect the public health, safety and welfare. Where the conditions imposed by any provision of this section are either more or less restrictive to the public than comparable provisions imposed by any other law, ordinance, statute, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements on the public shall prevail. Should any court of competent jurisdiction declare any section or subpart of this section to be invalid, such decision shall not affect the validity of the section as a whole or any part thereof, other than the provision declared invalid.

(3) DEFINITIONS. For the purposes of this section, the following terms or words shall be interpreted as follows:

(a) Building Inspector: The Building Inspector for the City of Dodgeville or his/her duly authorized representative(s).

(b) Chemical Dump Site: Any place or area where chemicals or other waste materials used in a clandestine drug lab operation have been located.

(c) City: The City of Dodgeville.

(d) Clandestine Drug Lab Operation: The unlawful manufacture or attempt to manufacture a controlled substance.

(e) Clandestine Drug Lab Site: Any place or area where law enforcement has determined that an unlawful clandestine drug lab operation exists or existed. A clandestine drug lab site may include, but is not limited to, dwellings, accessory buildings, structures or units, vehicles, boats, trailers or any other area or locations.

(f) Controlled Substance: Any drug, substance or immediate precursor in Chapter 961 of the Wisconsin State Statutes together with any amendments or modifications thereto. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

(g) Household Hazardous Waste: Waste generated from a clandestine drug lab operation.

(h) Site: A chemical dump site and/or clandestine drug lab site.

(i) Manufacture: In places other than a pharmacy, shall mean and include the production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, and the packing, repacking, tableting, encapsulating, labeling, relabeling, or filling of a controlled substance.

(j) Owner: Any person(s), firm(s), corporation(s) or other entity who or which owns, in whole or in part, the land, building, structure, vehicle, boat, trailer or other location associated with a site.

(4) DECLARATION OF SITE AS A PUBLIC HEALTH NUISANCE. A site, all areas in proximity to a site, and all personal property located on areas in proximity to a site, are

potentially unsafe due to health hazards and are hereby declared to be a public health nuisance.

(5) LAW ENFORCEMENT ACTION.

(a) When a law enforcement authority determines the existence of a site, the site and all personal property located in proximity to the site shall be declared a public health nuisance. Law enforcement authorities who identify conditions associated with a site are authorized to take the following action:

1. Promptly notify the Building Inspector, child protection officials, public health authorities, and the appropriate enforcement division of the Drug Enforcement Administration of the U.S. Justice Department. This notice must, at a minimum, identify the location of the site, the property owner, if known, and the conditions found on the site;

2. Treat, store, transport or dispose of all household hazardous waste found at the site in a manner consistent with state and federal rules and regulations;

3. Issue a temporary Declaration of Public Health Nuisance for the site and post a copy of the declaration on all doorway entrances to the site or, in the case of bare land, post the declaration in several conspicuous places on the property. This temporary Declaration of Public Health Nuisance issued by law enforcement shall not expire until after the Building Inspector inspects the site and determines the appropriateness of issuing a permanent Declaration of Public Health Nuisance;

4. Notify all persons occupying the site that a temporary Declaration of Public Health Nuisance has been issued;

5. Require all persons occupying the site to immediately vacate the site, to remove all pets from the site, and not to return to the site without written authorization from the Building Inspector;

6. Notify all occupants vacating the site that all personal property at the site may be contaminated with dangerous chemical residue; and

7. After all occupants have vacated the site, put locks on each doorway entrance to any buildings located on the site to prohibit people from entering the site without authorization.

(b) Prompt notification of the persons and organizations mentioned above may be delayed to accomplish appropriate law enforcement objectives, but only to the extent that public health and child protection responsibilities are not unnecessarily compromised.

(6) SEIZURE OF PROPERTY. When the site is inside a vehicle, boat, trailer or other form of moveable personal property, law enforcement authorities shall immediately seize it

and not allow it to be transported except to a more secure location. In such circumstances, all other requirements of this section shall be followed as closely as possible given the specific type of property in which the site is discovered.

(7) ACTION BY BUILDING INSPECTOR.

(a) Inspection and Declaration of Nuisance. Within forty-eight (48) hours of notification that law enforcement authorities have determined the existence of a site, the Building Inspector shall cause the site to be inspected to determine whether to issue a permanent Declaration of Public Health Nuisance. Based on the results of the inspection, the Building Official may then promptly issue a permanent Declaration of Public Health Nuisance and a Do Not Enter – Unsafe to Occupy Order for the site to replace the temporary declaration issued and posted by law enforcement. A copy of the permanent declaration and order shall be posted on all doorway entrances to the site or, in the case of bare land, shall be posted in several conspicuous places on the property.

(b) Abatement Order. Within 24 hours after the permanent Declaration of Public Health Nuisance has been issued and posted, the Building Inspector shall send written notice to the site owner ordering abatement of the public health nuisance. The abatement order shall include the following information:

1. A copy of the Declaration of Public Health Nuisance and Do Not Enter – Unsafe to Occupy Order and a copy of this section;
2. Information about the potentially hazardous condition of the site;
3. Notification of the immediate suspension of the site’s rental license if applicable; and
4. Information that may help the owner locate appropriate services necessary to abate the public health nuisance.

(c) Notice to Concerned Parties. Within three (3) days after the permanent Declaration of Public Health Nuisance has been issued and posted, the Building Inspector shall also mail a copy of the permanent Declaration of Public Health Nuisance, a copy of this section, and a notification of the suspension of the site’s rental licenses, if applicable, to the following concerned parties at their last known address:

1. Occupants or residents of the site if the identities of such persons are known;
2. Neighbors in proximity to the site who may be affected by the conditions found, as determined by the Building Inspector;
3. The Chief of Police or his/her duly authorized representative(s);
4. The Iowa County Sheriff’s Department; and

5. The Drug Enforcement Administration of the U.S. Justice Department; the Iowa County Health Department, the Wisconsin Department of Health, and the Wisconsin Department of Natural Resources.

(d) Modification or Removal of Declaration. The Building Inspector is authorized to modify or remove the permanent Declaration of Public Health Nuisance after the Building Inspector receives documentation from a City approved environmental hazard testing and cleaning firm stating that the suspected health and safety risks, including those to neighbors and potential dwelling occupants, either do not exist or have been sufficiently abated or corrected to justify amendment or removal of the declaration.

(8) SITE OWNER'S RESPONSIBILITY TO ACT. Within ten (10) business days of the date the abatement order is mailed to the owner of the site, the owner shall accomplish the following:

(a) Provide the Building Inspector with written notification:

1. That the owner has confirmed that all persons and their pets have vacated the site;

2. Of the name(s) of all children who the owner believes were residing at the site; and

3. That the site will remain vacated and secured until the public health nuisance is completely abated as required by this section;

(b) Contract with one or more City approved environmental hazard testing and cleaning firms to conduct the following work in accordance with the most current state and federal health guidelines:

1. A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein;

2. Soil testing of the site and testing of all property and soil in proximity to the site which the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the site;

3. A complete cleanup of the site (including but not limited to the clean up or removal of plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of the site and a complete cleanup of the demolished site;

4. A complete clean up, or disposal at an approved dump site, of all personal property in the site;

5. A complete cleanup of all property and soil in proximity to the site which is found to have been affected by the conditions found at the site;

6. Remediation testing and follow-up testing, including but not

limited to testing of the ventilation system and plumbing, to determine that all health risks are sufficiently reduced, according to state and federal Health guidelines, to allow safe human occupancy and use of the site and use of the personal property therein and of all property and soil in proximity to the site;

7. Provide the Building Official with the identity of the testing and cleaning firm with which the owner has contracted for abatement of the public health nuisance as required above; and

8. Provide the Building Official with a written cleanup schedule with reasonable deadlines for completing all actions required by the abatement order.

(9) **SITE OWNER'S VERIFICATION OF COMPLIANCE.** The site owner must meet all deadlines established on the cleanup schedule. Pursuant to the deadlines established by the cleanup schedule, the site owner is required to provide the Building Inspector with a signed statement from a City approved environmental hazard testing and cleaning firm that the site, all personal property therein and all property and soil in proximity to the site, is safe for human occupancy and use and that the cleanup was conducted in accordance with the most current state and federal health guidelines.

(10) **SITE OWNER'S RESPONSIBILITY FOR COSTS.** The site owner is responsible for all costs, including those of the City, of dealing with and abating the public health nuisance, including contractor's fees and the City's costs for services performed in association with the site. The City's costs may also include, but shall not be limited to:

- (a) Posting of the site;
- (b) Notification of affected parties;
- (c) Securing the site, providing limited access to the site, and prosecution of unauthorized persons found at the site;
- (d) Expenses related to the recovery of costs, including the assessment process;
- (e) Laboratory fees;
- (f) Cleanup services;
- (g) Administrative fees;
- (h) Legal fees; and
- (i) Other associated costs.

(11) **CITY ACTION AND RECOVERY OF COSTS.**

- (a) If the site owner fails to comply with any of the requirements of this



section, the Building Inspector is authorized to take all reasonable actions necessary to abate the public health nuisance including, but not limited to, contracting with a City approved environmental hazard testing and cleaning firm to conduct the work outlined in Section (h)(2) of this ordinance.

(b) If the costs to clean the site or to clean or dispose of the personal property at the site are prohibitively high in relation to the value of the site or the personal property, the City is authorized to remove or demolish the site, structure or building and/or dispose of the personal property therein. These actions shall be taken in accordance with the provisions of sec. 66.0413, Wis. Stats., together with any amendments or modifications thereto.

(c) If the City abates the public health nuisance, in addition to any other legal remedy, the City shall be entitled to recover all of its out-of-pocket costs plus an additional 25% of such costs for administrative and legal expense. The City may recover its costs both by civil action against the owner of the site, and by assessing such costs as a special charge against the site and collected at the time real estate taxes are due and payable. The Building Inspector is authorized to notify any lien and/or mortgage holders of the affected site.

(12) RECOVERY OF COSTS FROM PERSONS CAUSING DAMAGE. No provisions of this section are intended to limit the site owner's, residents' or the City's right to recover costs incurred under this section from either the persons contributing to the public health nuisance, such as the operators of the site, and/or from other lawful sources.

(13) SITE OWNER AND ADDRESS. When the site is real property and the owner or the address of the owner of the site is unknown, the owner and the owner's address is deemed to be that of the property's taxpayer's name and address as that information is maintained by the county tax lister's office. When the site is a vehicle, boat or trailer and the owner or the address of the owner of the site is unknown, the owner and the owner's address is deemed to be that of the person on file as the owner on the current or most recent title to the vehicle, boat or trailer.

(14) UNAUTHORIZED REMOVAL OF POSTINGS. It is unlawful for any person, except authorized City personnel, to remove a temporary or permanent Declaration of Public Health Nuisance and/or Do Not Enter – Unsafe to Occupy order from a site.

(15) ENTRY INTO OR ONTO SITE. While a Declaration of Public Health Nuisance for an affected site is in effect and has been posted at the site, no persons are permitted to be inside the site, or on the site property without prior written consent of the Building Inspector or as otherwise authorized by this section. To confirm compliance with this section and to execute their duties under this section, law enforcement officers, the Building Inspector, and any persons designated by the Building Inspector, may enter onto the site property or enter into the site at any time while a Declaration of Public Health Nuisance is in effect for the site.

(16) REMOVAL OF PERSONAL PROPERTY FROM THE SITE. While a Declaration of Public Health Nuisance for an affected site is in effect and has been posted at the site, no personal property may be removed from the site without prior written consent from the Building Inspector. Consent to remove personal property shall only be granted at the reasonable

discretion of the Building Official, and only in cases of hardship after:

(a) A City approved environmental hazard testing and cleaning firm has advised the City, in writing, that the item(s) of personal property can be sufficiently cleaned to remove all harmful contamination; and

(b) The owner of the personal property agrees in writing:

1. That the owner is aware of the danger of using the contaminated property;

2. That the owner will thoroughly clean the property to remove all contamination before the property is used; and

3. That the owner releases and agrees to indemnify the City, its staff, and the City Board from all liability to the owner and/or third persons for injuries or damages caused, or alleged to have been caused, by the contaminated property.

(17) PENALTIES. Any person(s), firm(s), corporation(s), or other entity/entities violating any provision of this section shall in addition to any costs above set forth shall also be subject to a forfeiture of not less than One-Hundred Dollars (\$100) nor more than One-Thousand Dollars (\$1,000) for each violation of this section together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail until said forfeiture and costs are paid, but not to exceed six (6) months. The bond amount for violation of this section shall be \$200.00 together with applicable court costs, fees and assessments.

**10.15 PENALTY.** In addition to the penalties provided in this chapter, any person who shall violate any provision of this chapter, or permit or cause a public nuisance, shall be subject to a penalty as provided in sec. 25.04 of this Code.

Adopted and approved this 2<sup>nd</sup> day of July, 2019.

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Todd D. Novak, Mayor

ATTEST:

\_\_\_\_\_  
Lisa A. Riley, City Clerk

Dated Adopted: May 7, 2019  
Date Recorded: \_\_\_\_\_  
Date Published: \_\_\_\_\_  
Effective Date: \_\_\_\_\_