

## Chapter 5

### NUISANCES

**[HISTORY: Adopted by the Town Board of the Town of Linn 11-13-1995 (§§ 5.01 to 5.03 and 5.05 to 5.09 of the 1995 Code). Amendments noted where applicable.]**

#### GENERAL REFERENCES

Trees and shrubs — See Ch. 4.

Offenses against public peace, safety and morals — See Ch. 6.

Dogs — See Ch. 7.

#### **§ 5-1. Nuisances prohibited.**

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

#### **§ 5-2. Nuisances defined.**

- A. General. 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.
- B. Public nuisances affecting health. The following acts, omissions, place, 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 Subsection A of this section:
- (1) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
  - (2) Carcasses of animals, birds, or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
  - (3) Accumulations of decayed animal or vegetable matter, trash, paper, boxes, 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 flytight.
- (6) All noxious weeds and other rank growth of vegetation.
- (7) 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 threaten or cause substantial injury to property.
- (8) The pollution of any stream or body of water by sewage, creamery or industrial wastes or other substances.
- (9) Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Town of Linn.
- (10) Liquid manure which is not buried or injected into the soil within 48 hours after it has been spread. Liquid manure shall not be spread on areas greater than nine-percent slope on frozen or snow-covered ground. Liquid manure shall not be spread closer than 200 feet to adjacent property owners' residential areas. [Added 7-9-2001]

C. Public nuisances affecting safety. The following acts, omissions, place, conditions and things are hereby specifically declared to be public safety nuisances but shall not be construed to exclude other safety nuisances coming within the definition of Subsection A of this section:

- (1) Allowing domestic animals (dangerous or otherwise) to run at large on the premises wherein they can access property of another to the substantial discomfort of persons or are allowed to cause injury to persons or property.
- (2) All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of the traffic when approaching an intersection or pedestrian crosswalk. Any such obstruction which falls within a vision clearance triangle extending 25 feet horizontally along each street line from their intersection and within a vertical clearance of six feet shall be presumed to be a violation of this subsection.<sup>1</sup>
- (3) All use or display of fireworks except as provided by the laws of the State of Wisconsin or ordinances of the Town of Linn.<sup>2</sup>
- (4) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use or occupancy.

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1. Editor's Note: Original § 5.02(c)3, which immediately followed this subsection and dealt with tree limbs, was deleted at time of adoption of Code (see Code Adoption Ordinance). See now Subsection C(17).

2. Editor's Note: See Ch. 6, § 6-14.

- (5) All wires over streets, alleys, highways or public grounds which are strung less than 15 feet above the surface of the street or ground.
- (6) All loud, discordant and unnecessary noises or vibrations of any kind which greatly annoy or disturb a neighborhood or any considerable number of persons within the Town.
- (7) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Town.
- (8) All obstructions of streets, alleys, highways, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Town 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.
- (9) All open and unguarded cisterns, cesspools, pits, wells, excavations, unused basements, or other dangerous openings freely accessible from any public street or place.
- (10) All abandoned refrigerators, iceboxes or any other appliance.
- (11) Any unauthorized or unlawful use of property abutting on a public street or alley or of a public street or alley which causes large crowds of people to gather, obstructing traffic and free use of such street or alley.
- (12) Any wharf or pier or extension thereof erected, constructed, placed, extended or maintained in or upon the bed of Geneva Lake along or beyond the shoreline as it exists or has been established within the Town of Linn in violation of Chapter 13 of this Code.
- (13) Repeated or continuous violations of the ordinances of the Town or laws of the State of Wisconsin relating to the storage of flammable liquids.<sup>3</sup>
- (14) Any condition or practice constituting a fire hazard.
- (15) Any advertisements or signs affixed to any building, wall, fence, street or other private or public property without permission of the owner thereof.
- (16) Any nuisance so defined by the Wisconsin Statutes.
- (17) All limbs of trees which project over and less than eight feet above the surface of a public sidewalk or 15 feet above the surface of the portion of the street or highway travelled by vehicles.
- (18) All signs and billboards, awnings and other structures over or near streets, sidewalks, public grounds, or places frequented by the public so situated or constructed as to endanger the public safety.

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3. Editor's Note: See Ch. 6, § 6-15.

(19) 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 their color, location, brilliance or manner of operation interfere with the effectiveness of any such device, sign or signal.

D. All owners of property located within a residential district of the Town of Linn who fail to keep their premises free of litter, debris, trash or rubbish shall be in violation of this section.

E. All property owners within the Town of Linn who allow their property to accumulate trash, litter or rubbish shall be considered to be in violation of this section.

F. As used in this section, the following terms shall have the meanings indicated:

LITTER — Includes, but is not limited to, trash and wastepaper lying scattered about, and an untidy accumulation of objects of any kind.

RUBBISH — Includes, but is not limited to, waste materials and refuse of every character and kind, collected and/or accumulated.

TRASH — Includes, but is not limited to, some thing or object(s) worth little or nothing or some thing or object(s) in a crumbled, broken or inoperable condition.

### § 5-3. Weeds.

A. Public policy. It is hereby declared necessary in the interest of public safety and welfare that the cutting of grass and noxious weeds be regulated in the Town between May 1 and November 1 because of the fire hazards that are involved and the danger to persons and property that results therefrom.

B. Definition. The term "noxious weeds" as used in this section includes the following: all types of thistles; ragweed; marijuana that is not grown or cultivated for lawful commercial purposes; English charlock or wild mustard; field bind weed, commonly known as "creeping jenny"; goat's beard; harmful barberry; field dodder; Indian mustard; oxeye daisy snapdragon or butter and eggs; poison ivy; leafy spurge; burdock; yellow rocket; quack or quitch grass; goldenrod; and pigweed.

C. Cutting of grass and noxious weeds.

(1) No person owning land in the Town shall permit any grass and noxious weeds to grow to a height in excess of one foot between May 1 and November 1 within 200 feet of any residence. It shall be the duty of any owner to cut such grass and noxious weeds within the area herein described and to remove such cuttings from the premises or cut them up in such a manner as to prevent the burning thereof.

(2) In the event that such grass and noxious weeds are not cut as required by this section, written notice thereof shall be given to the owner by the Weed Commissioner by certified mail or personal service of such notice directing

that the grass and noxious weeds be cut within 10 days, and in the event such grass and noxious weeds are not so cut within 10 days, the Town Board shall provide for the cutting and removal of such grass and noxious weeds and charge the cost and expense thereof to the owner of the premises involved. A statement of such costs shall be mailed by the Town Clerk/Treasurer to the owner, and if not paid within 30 days from date of mailing such costs shall be placed upon the tax roll and assessed against the real estate involved and collected by the Town at the next succeeding tax collection.

- D. Service by Fire Department. In the event that a fire occurs in an area where the grass and noxious weeds have not been cut as required by this section which requires the service of the Town Fire Department to control the same, the owner shall be liable to the Town for all costs and expenses incurred by such fire and shall pay the cost upon written notice from the Town Clerk/Treasurer as to the amount thereof. In the event such payment is not made within 30 days from notice of the Town Clerk/Treasurer, the amount thereof shall be placed upon the tax roll and assessed against the real estate upon which the fire occurred and collected by the Town at the next succeeding tax collection.<sup>4</sup>

#### **§ 5-4. Junked vehicles, boats and appliances.**<sup>5</sup>

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:

APPLIANCE — Includes but is not limited to a stove, washer or refrigerator which is no longer operable in the sense for which it was manufactured.

DISASSEMBLED, INOPERABLE, JUNKED OR WRECKED MOTOR VEHICLES, TRUCK BODIES, TRACTORS OR 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.

MOTOR VEHICLE — As defined in § 340.01(35), Wis. Stats.

UNLICENSED — Motor vehicles, truck bodies, tractors, or trailers which do not bear lawful license plates.

- B. No disassembled, inoperable, unlicensed, junked or wrecked motor vehicles, truck bodies, tractors, trailers, boats or appliances shall be stored or allowed to remain in the open within the Town for a period exceeding five days if upon public property or for a period exceeding 30 days if upon private property. Any properly zoned business engaged in automotive sales or repair may retain such vehicles in the open, on private property, for a period not to exceed one year, after which such vehicles must be enclosed by a screening or live planting.

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4. Editor's Note: Original § 5.04, Trees and shrubs, which immediately following this section, has been moved and included in Ch. 4, Trees and Shrubs.

5. Editor's Note: Amended at time of adoption of Code (see Code Adoption Ordinance). For provisions regarding abandoned vehicles see Ch. 9, § 9-6.

**§ 5-5. Storage of junked property.**

No person shall store junked, discarded, unsightly or seldom-used property which is also unsightly, including automobiles, automobile parts, trucks, tractors, refrigerators, furnaces, washing machines, stoves, machinery or machinery parts, wood, bricks, cement blocks, other debris or materials which would tend to depreciate property values in the neighborhood, except in an enclosure which screens such property from public view or upon permit issued by the Town Board.

**§ 5-6. Abatement of public nuisances.**

- A. Inspection of premises. Whenever a complaint is made to the Town Board or any member thereof that a public nuisance exists within the Town, he shall promptly notify the Chief of Police or Building Inspector or other Town official who shall forthwith inspect or cause to be inspected the premises and shall make a report of his findings to the Town Board. Whenever practicable, photographs of the premises shall be made and filed in the office of the Town Clerk/Treasurer.
- B. Summary abatement; notice to owner. If the inspecting officer shall determine that a public nuisance exists and that there is great and immediate danger to public health, safety, peace, morals or decency, the Town Board may direct the Chief of Police or Building Inspector or other Town official to serve notice on 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 the nuisance within 24 hours and shall state that unless such nuisance is so abated, the Town Board will cause the same to be abated and will charge the costs thereof to the owner, occupant, or person causing, permitting or maintaining the nuisance, as the case may be.
- C. Abatement by the Town. If the nuisance is not abated within the time provided or if the owner, occupant, or person causing the nuisance cannot be found, the Chief of Police in case of health nuisances and the Building Inspector in other cases, or other designated official, shall cause the abatement or removal of such public nuisance.
- D. Abatement by court action. If the inspecting officer shall determine that a public nuisance exists on the premises but that the nature of such nuisance is not such as to threaten great and immediate danger to public health, safety, peace, morals or decency, he shall file a written report of his findings with the Town Board, which shall cause an action to abate such nuisance to be commenced in the name of the Town in the Circuit Court of Walworth County in accordance with the provisions of Ch. 823, Wis. Stats.
- E. Other methods not excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Town in accordance with the laws of the State of Wisconsin.

**§ 5-7. Recovery of abatement costs.**

In addition to the penalty imposed by this chapter for the erection, contrivance, creation, continuance, or maintenance of a public nuisance, the cost of abating the 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 other special taxes.

**§ 5-8. Violations and penalties.**<sup>6</sup>

In addition to the abatement procedures provided in this chapter, any person violating this chapter shall be subject to a penalty as provided in Chapter 1, § 1-4 of this Code.

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<sup>6</sup>. Editor's Note: Added at time of adoption of Code (see Code Adoption Ordinance).