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Office of the City Administrator

PUBLIC WELFARE COMMITTEE

Wednesday, November 9, 2022

6:45 PM

Lower Conference Room

Agenda

I) Call to Order, Roll Call

II) Approval of Meeting Minutes

Action requested: review and approve

1. October Meeting Minutes

III) Ordinances

Action requested: review and recommend approval

1. **ORDINANCE 2022-1635** An Ordinance Amending Chapter 10 of the Mequon Municipal Code, Specifically Section 10-55(a) of the Building Code, Related to Survey Requirements for a Building Permit
2. **ORDINANCE 2022-1629** An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Establishing Veterinary Clinics as a Conditional Use in the B-1 (Neighborhood Commercial) Zoning District

IV) Discussion Items

Action requested: discuss and take action as needed

1. Nuisances Ordinance Amendments

V) Work Calendar

VI) Adjourn

Dated: November 9, 2022

/s/ Dale Mayr, Chair

.....
Notice is hereby given that a quorum of other governmental bodies may be present at this meeting to present, discuss and/or gather information about a subject over which they have decision-making responsibility, although they will not take formal action thereto at this meeting.

Persons with disabilities requiring accommodations for attendance at this meeting should contact the City Clerk's Office at 262-236-2914, twenty-four (24) hours in advance of the meeting.

Any questions regarding this agenda may be directed to the City Administrator's Office at 262-236-2941, Monday through Friday, 8:00 AM – 4:30 PM



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Office of the City Administrator

PUBLIC WELFARE COMMITTEE

Tuesday, October 11, 2022

5:45 PM

Lower Conference Room

Minutes

1) Call to Order, Roll Call

Present:

Chair Dale Mayr
Alderman Mark Gierl
Alderman Kathleen Schneider

Also Present: Assistant City Administrator Schoenemann, City Attorney Sajdak, Assistant Community Development Director Zader, City Planner Miller, and Executive Assistant Enea.

2) Approval of Meeting Minutes

a. September Meeting Minutes

RESULT: **Approved by Voice Acclamation [Unanimous]**

MOVED BY: Alderman Schneider

SECONDED BY: Alderman Gierl

AYES: Mayr, Gierl, Schneider

3) Discussion Items

a. Text Amendment to Chapter 10, Building Code, Specifically 10-55(a), Related to Survey Requirements for a Building Permit

City Planner presented the survey text amendment as a way to reduce project delays. Currently, every project submitted to the City needs to have a survey that is less than one year old. It is being proposed that if an existing survey is accurate to the property, then it does not have to be redone. The Community Development Department can tell if a survey is accurate by using GIS. The Committee agreed that this was a good idea cost and timewise for residents and will vote on it next month.

b. An Ordinance Amending to Chapter 2 of the Mequon Code of Ordinances Related to Electronic Attendance at City Meetings

The Committee had a short discussion regarding their amendments made at the last meeting to allow Common Council members to attend virtually three times/year, Volunteer

Committees could attend virtually four times/year, and staff and consultants could attend virtually as needed. Since 24-hour notice is required by law for open meetings, the Committee agreed not to make any other changes.

c. Nuisances Ordinance Amendments

City Attorney Sajdak began the discussion by saying how the nuisance ordinance could be more stream-lined with the definition and sending repeat offenders straight to court rather than following penalty steps. The Committee also discussed times and days of the week being more specific, such as with construction. Also, when an ordinance is changed, it should be published in the Weekly Bulletin so that residents are aware. The Committee recommended for Community Development to look at the current ordinance to see what should be changed and to clarify what violations should go to the Director of Community Development rather than the Police Chief or Common Council.

4) Work Calendar

1. Nuisance Ordinance
2. Senior Discount at Pool

5) Adjourn

Alderman Gierl moved to adjourn at 6:29 P.M. and Alderwoman Schneider seconded.

Respectfully Submitted,

Carrie Enea
Executive Assistant



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Office of Public Welfare Committee

TO: Public Welfare Committee
FROM: Laurie Miller, Planner
DATE: November 9, 2022
SUBJECT: ORDINANCE 2022-1635 An Ordinance Amending Chapter 10 of the Mequon Municipal Code, Specifically Section 10-55(a) of the Building Code, Related to Survey Requirements for a Building Permit

Background

Staff is proposing a text amendment to change survey requirements for building permits in an effort to reduce project delays and placing unnecessary costs on to property owners. The proposed changes will provide flexibility for staff to accept accurate but “older surveys” on a case-by-case basis for those properties eligible for exemption to the new survey rule.

Analysis

Section 10-55 requires all surveys to be prepared and certified no more than one year prior to the issuance of a building permit. Requiring a new survey is standard practice for projects such as new home construction, large additions, and properties with wetlands, floodplain, steep slopes, and easements on them. Characteristics found on surveys rarely change unless there are new structures added to the site; wetlands, floodplain, and steep slopes are present; or when easements or other legal encumbrances have been placed on the property. Often times, requiring a one-year-old plat versus an accurate plat has very little impact on the approval of projects.

Staff regularly receives complaints and cancellations for building permit applications due to the additional costs and project delays the one-year plat rule generates. A new survey can cost a property owner between hundreds to several thousands of dollars depending on the details the current ordinance requires on a plat, the dimensions, and existing conditions of the property. The price of a new plat for projects such as small sheds and fences can sometimes cost the homeowner more money than the project itself. It can also take several weeks to have a survey completed, delaying the building permit review process and construction.

Staff has developed the proposed changes to provide flexibility and accept accurate but older surveys on a case-by-case basis. The text amendment notes conditions where the property owner would not be eligible for relief from the new survey rule. Other proposed changes to the text remove requirements that are usually not needed to complete a review of a building permit application.

Fiscal Impact

The text amendment is fiscally neutral.

Recommendation

A recommendation is forthcoming from the Public Welfare Committee on November 9, 2022.

Attachments:

Exhibit A: Track Changes Version of Proposed Text Amendment (DOCX)

Exhibit B: Clean Version of Proposed Text Amendment (DOCX)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2022-1635

An Ordinance Amending Chapter 10 of the Mequon Municipal Code, Specifically Section 10-55(a) of the Building Code, Related to Survey Requirements for a Building Permit

RECITALS

A. The Common Council has previously adopted Chapter 10 of the Mequon Municipal Code

B. Public Welfare Committee recommended approval of the changes to Section 10.55 on the 9th day of November 2022.

C. The Common Council, having reviewed the regulations related to such survey requirements, has determined that the City should adopt specific standards as show in Exhibit A.

BASED UPON THE FOREGOING RECITALS, the Common Council of the City of Mequon, Wisconsin, do ordain as follows:

SECTION I

Section 10-55(a) of the Mequon Municipal Code, which establishes requirements for surveys, is amended as per Exhibit A.

SECTION II

The terms and provision of this ordinance are severable. Should any term of provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION IV

This ordinance shall be in full force and effect upon its passage and on the day after its publication.

Approved by: Andrew Nerbun, Mayor

Date Approved: November 9, 2022

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on November 9, 2022.

Caroline Fochs, City Clerk

Published: _____

Exhibit A: Section 10-55(a) Track Changes Version for the Proposed Text Amendment

(a) Survey. Any building permit application that involves a new building or structure, or exterior changes to the size of an existing building or structure, shall include a new plat of survey. The survey shall be prepared and certified by a surveyor registered by the state. The survey shall provide, at a minimum, the following information and is subject to verification:

- (1) Legal description and drawing showing the boundaries of the property and size of the premises, giving the subdivision name, lot and block number if located in an approved subdivision.
- (2) Location and size of all existing and proposed structures, including septic systems and wells, and structures and wells on adjacent lots located within 50 feet.
- (3) Dimensions of the lot.
- (4) Dimensions showing all setbacks of existing and proposed buildings on the lot.
- (5) Drainage easements and public utility easements in existence on the property.
- (6) Watercourses or existing drainage ditches.
- (7) Seal and signature of the surveyor.
- (8) Date of survey.

Some surveys may require additional information based on the unique characteristics of the property and project as determined by the Community Development Director or designee.

In lieu of a new survey, an existing survey that is accurate to the number and size of existing buildings and structures, easements or other legal encumbrances, and matches the current lot configuration may be allowed on a case-by-case basis for non-commercial residential projects as determined by the Community Development Director or designee. Residential projects that meet the following conditions are not eligible for an exemption of submitting a new survey:

- (1) New home construction projects.
- (2) Projects that are in proximity to an existing wetland.
- (3) The property contains frontage on the Lake Michigan bluff or other topographic areas with slopes that are equal to or greater than 12 percent.
- (4) The property is located within the 100-yr floodplain.
- (5) Other projects where it is difficult to ascertain from the current survey, compliance with all setbacks, offsets, and other technical requirements.

Deleted: be required to submit

Deleted: The survey shall be prepared and certified by a surveyor registered by the state; shall be in no case prior to one year prior to the issuance of a building permit; and shall bear the date of the survey. The certified survey shall also show the following:

Deleted: (5) Proposed grade of the proposed structure, to city data.¶

(6) Elevation of existing and proposed finished grades at the building line at the proposed street of the ground surface and the filter bed area, ground surface approximately 40 feet to the rear and sides of the proposed structure, of the centerline of the road adjacent to lot corners, the location and elevation of all structures on adjacent properties. Additional elevations may be required by the building inspector.¶

(7) Grade and setback of adjacent buildings. If an adjacent lot is vacant, submit elevation of nearest buildings on the same side of the road.¶

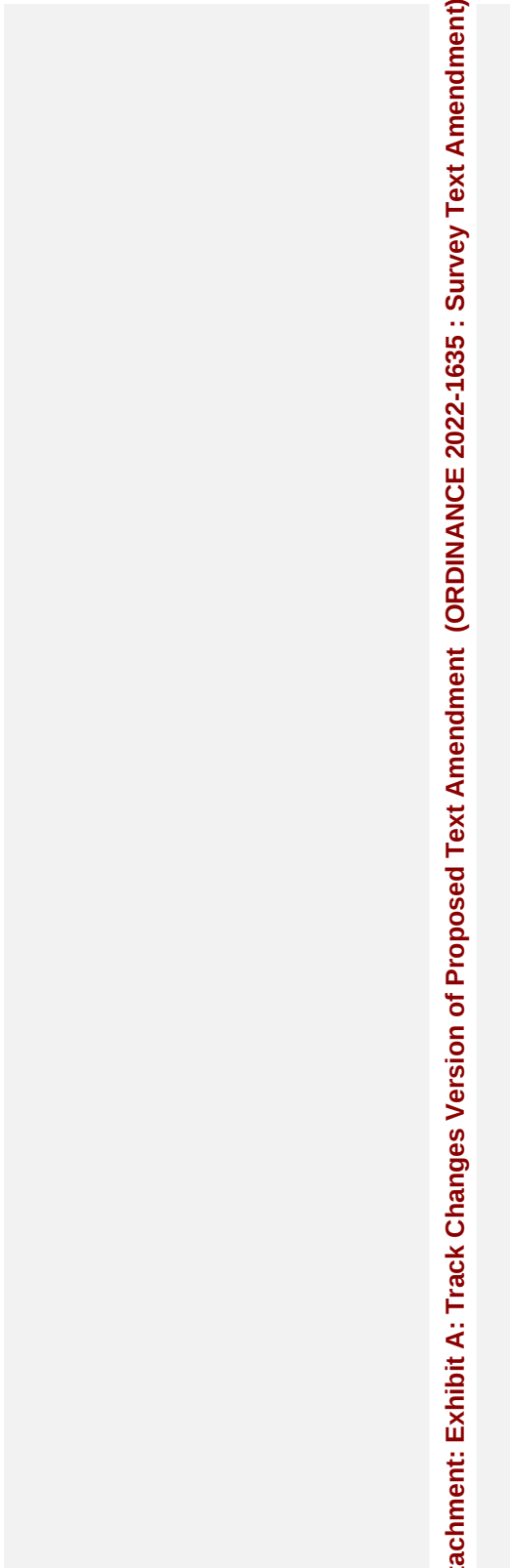
(8) On lots served by sanitary sewer and storm sewer, show the location, rim elevation and invert elevation at the two manholes nearest to the property.

(9) Type of monuments at each corner of the

Deleted: 10

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Attachment: Exhibit A: Track Changes Version of Proposed Text Amendment (ORDINANCE 2022-1635 : Survey Text Amendment)

Exhibit 2: Section 10-55(a) Proposed Text Amendment

(a) *Survey.* Any building permit application that involves a new building or structure or exterior changes to the size of an existing building or structure shall include a new plat of survey. The survey shall be prepared and certified by a surveyor registered by the state. The survey shall provide, at a minimum, the following information and is subject to verification:

- (1) Legal description and drawing showing the boundaries of the property and size of the premises, giving the subdivision name, lot and block number if located in an approved subdivision.
- (2) Location and size of all existing and proposed structures, including septic systems and wells, and structures and wells on adjacent lots located within 50 feet.
- (3) Dimensions of the lot.
- (4) Dimensions showing all setbacks of existing and proposed buildings on the lot.
- (5) Drainage easements and public utility easements in existence on the property.
- (6) Watercourses or existing drainage ditches.
- (7) Seal and signature of the surveyor.
- (8) Date of survey.

Some surveys may require additional information based on the unique characteristics of the property and project as determined by the Community Development Director or designee.

In lieu of a new survey, an existing survey that is accurate to the number and size of existing buildings and structures, easements or other legal encumbrances, and matches the current lot configuration may be allowed on a case-by-case basis for non-commercial residential projects as determined by the Community Development Director or designee. Residential projects that meet the following conditions are not eligible for an exemption of submitting a new survey:

- (1) New home construction projects.
- (2) Projects that are in proximity to an existing wetland.
- (3) The property contains frontage on the Lake Michigan bluff or other topographic areas with slopes that are equal to or greater than 12 percent.
- (4) The property is located within the 100-yr floodplain.
- (5) Other projects where it is difficult to ascertain from the current survey, compliance with all setbacks, offsets, and other technical requirements.



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Office of Community Development

TO: Public Welfare Committee
FROM: Jac Zader, Assistant Director Community Development
DATE: October 11, 2022
SUBJECT: ORDINANCE 2022-1629 An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Establishing Veterinary Clinics as a Conditional Use in the B-1 (Neighborhood Commercial) Zoning District

Background

An applicant is requesting a text amendment to allow for Veterinary Clinics as a conditional use in the B-1 (Neighborhood Commercial) Zoning District. This request is due to interest from a prospective tenant to locate a new business at 7625 W. Mequon Road.

Currently, Veterinary Clinics are permitted in the TC (Town Center), AC (Arrival Corridor), and NC (Neighborhood Commercial) Zoning Districts and as a conditional use in the B-2 (Community Commercial) and B-7 (Rural Office) Zoning Districts. There are also specific design considerations that the use is subjected to, regardless of the zoning. The specifications are as follows:

- (a) *Animal hospitals and veterinary clinics.* An animal hospital or veterinary clinic is an establishment that provides medical services to animals and limited boarding facilities and shall comply with the following:
 - (1) Such an establishment may not be located adjacent to any existing restaurant, grocery or food service within the same building.
 - (2) Such an establishment shall provide one or more designated outdoor areas for the animals as they arrive and leave the facility and for any walks. These outdoor areas shall be properly signed and maintained daily, screened from public view and any adjacent residential use and located within close proximity to the parking area. The size of these outdoor areas shall be determined by the size of the facility, number of staff members and number of animals served.
 - (3) All boarding shall be enclosed within the building.
 - (4) No animal shall be allowed to be left unsupervised between the hours of 10:00 p.m. and 6:00 a.m. in a building that contains residential units.

Analysis

The B-1 Zoning District was established to generally accommodate the basic day-to-day retail and service needs of persons residing in nearby residential areas. Staff believes the proposed use of a veterinary clinic fits this description. Currently, there are other similar uses, including medical and dental clinics that are conditional in the B-1 Zoning District. Staff supports the proposed text amendment to allow animal hospitals and veterinary clinics in the B-1 Zoning District as a conditional use. Since Table 58-517 (c) of the Animals Division cross references the Zoning District uses, the chart will need to be updated as well.

Fiscal Impact

The text amendment is fiscally neutral.

Recommendation

The Planning Commission recommended approval on September 19, 2022, by a vote of 8-0.

Attachments:

Exhibit A: Proposed Text Amendment (DOCX)

Exhibit B: 58-517 (c) Animals (DOCX)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2022-1629

An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Establishing Veterinary Clinics as a Conditional Use in the B-1 (Neighborhood Commercial) Zoning District

RECITALS

A. Pursuant to the authority granted to it under Section 62.23(7) of the Wisconsin Statutes, the City of Mequon previously adopted a comprehensive Zoning Code for the City which includes the B-1 (Neighborhood Commercial) District under Section 58-294 of the Municipal Code.

B. An applicant has sought a text amendment to the B-1 regulations to allow for a veterinary clinic.

C. The Planning Commission, by a majority vote, adopted a recommendation to approve the text amendment on the 19th day of September 2022.

D. Following due notice and a public hearing by the Common Council, the Council finds that the proposed amendment is consistent with the City's comprehensive master plan and that the amendment would further the health, safety and welfare of the community.

BASED UPON THE FOREGOING RECITALS, the Common Council of the City of Mequon, Wisconsin, do ordain as follows:

SECTION I

Section 58-294 (e) of the Mequon Zoning Code, which establishes conditional uses within the B-1 Zoning District and Table 58-517 (c) which cross references uses related to animals, are amended as attached in Exhibits A & B.

SECTION II

The terms and provision of this ordinance are severable. Should any term of provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION IV

This ordinance shall be in full force and effect upon its passage and on the day after its publication.

Approved by: Andrew Nerbun, Mayor

Date Approved: November 9, 2022

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on November 9, 2022.

Caroline Fochs, City Clerk

Published: _____

Sec. 58-294. B-1 neighborhood business district.

- (a) *Purpose.* The B-1 district is established to generally accommodate the basic day-to-day retail and service needs of persons residing in nearby residential areas.
- (b) *General requirements.*
 - (1) Buildings shall be designed in individual or small groupings and shall not exceed 20,000 square feet per structure, nor exceed two stories in height, except as approved as a conditional use. The commercial development shall be designed and sized in a manner which is architecturally, aesthetically and operationally harmonious with surrounding development.
 - (2) All business, servicing or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings. Outside storage is not permitted except as specifically approved by the planning commission.
 - (3) In approving or disapproving proposed locations for uses under this section the planning commission shall give due consideration to the character and suitability of development for the area in which any such use is proposed to be located and shall also base its decision on such evidence as may be presented to the city planning commission regarding traffic generation, ground water impact, sewage disposal impact, lighting, soil limitations and the emission of noise, smoke, dust or dirt, odorous or noxious gases attributed to the proposed use. The city planning commission, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion. The applicant shall have an opportunity to present evidence contesting such unsuitability or propose adequate mitigation, if they so desire. Thereafter, the city planning commission may affirm, modify or withdraw its determination of unsuitability.
 - (4) Site development shall be approved by the planning commission in accordance with this chapter.
 - (5) Redevelopment of an existing building, where 50 percent or more of the existing building area is removed, shall be subject to the regulations in subsection (c) unless the city modifies the regulations in accordance with a conditional use process.
- (c) *Permitted uses.*
 - (1) Retail trade establishments which supply convenience and specialty goods and services including, but not limited to, groceries, meats, dairy products, baked goods or other convenience goods, drugs, dry goods and notions.
 - (2) Personal and professional service establishments which perform services on the premises including, but not limited to, repair shops, (watches, radio and television, etc.) tailor shops, beauty parlors or barber shops, photographic studios, dry cleaners, laundries.
 - (3) General offices.
 - (4) Finance, insurance and real estate services including, but not limited to, banks, insurance offices, savings and loan associations and security brokers.
- (d) *Accessory uses.*
 - (1) Residential quarters for the owner/proprietor located in the same building as the business.
 - (2) Accessory buildings and uses customarily incidental to the above uses including, but not limited to, garages and dumpster storage facilities.
- (e) *Conditional uses.*

- (1) Public uses including, but not limited to, post offices, schools and local governmental offices and facilities.
- (2) Restaurants which provide for the consumption of food primarily within the building. No fast food restaurants will be allowed.
- (3) Cultural activities including, but not limited to, museums, libraries and art galleries.
- (4) Public and/or private utilities, telecommunication installations, transmission and distribution lines, poles, and other accessories. Specific regulations related to wireless telecommunication installations shall be subject to this chapter. When a utility proposes a main inter-city transmission facility, the utility shall give notice to the city of such intention and of the date of hearing before the public service commission. Public and/or private utility installations less than three feet in height shall be subject only to City of Mequon staff approval and may be allowed subject to staff imposed conditions regarding, among other things, effective screening from public view with all season vegetation.
- (5) Churches, temples and synagogues.
- (6) Health care facilities including, but not limited to, dental clinics, medical clinics, chiropractic clinics and health clubs.
- (7) Satellite dishes.
- (8) Child day care facilities.
- (9) Structures in which shall be located only principal or conditional uses, as enumerated in subsection (c) above, and this subsection (e), but which are greater than 20,000 square feet, but not to exceed 40,000 square feet, in size and/or greater than two stories in height.
- (10) Development that includes a proposed modification to one or more standard district regulation applicable to the base zoning district and located on a vacant parcel which is non-conforming to the required base zoning district standards for minimum lot size or minimum lot width.
- (11) Development that includes a proposed modification to one or more standard district regulation applicable to the base zoning district and located on an improved parcel with an existing structure in which parcel, or improvement, or both, are non-conforming to any of the required base zoning district standards.

(12) Veterinary Clinics and Animal Hospitals

- (f) *Lot size.* The minimum lot size shall have an area of not less than 1.5 acres.
- (g) *Building size/floor area ratio.* The building(s) floor area ratio shall not exceed 30 percent.
- (h) *Building height.* The height of any structure shall not exceed 42 feet unless otherwise allowed in accordance with section 58-418.
- (i) *Minimum building setback.* All structures within the B-1 district shall be set back from the ultimate road right-of-way as follows:
 - (1) Freeways, 50 feet.
 - (2) All other streets and highways (excluding local streets), 65 feet, except when parking is proposed between the road and building the minimum setback shall be 95 feet.
 - (3) Local streets, 60 feet.
- (j) *Minimum building offset.* No building or structure, hereafter erected, shall be placed closer than 20 feet to a side or rear lot line. If, however, adjoining property is zoned residential, no commercial building or structure shall be placed closer than 30 feet to the adjoining residentially zoned lot line.

(k) *Open space ratio.*

(1) The open space ratio shall not be less than 40 percent except as follows:

- a. Future additions to buildings that were approved by the planning commission prior to August 12, 1994, shall be subject to a 30-percent open space ratio.
- b. Properties which were the subject of planned unit development zoning or development agreement approval prior to August 12, 1994, shall be subject to the contractual open space ratio approved by the city pursuant to such planned unit development zoning or development agreement.
- c. Construction of additional buildings on sites developed prior to August 12, 1994, shall be subject to a 30-percent open space ratio.
- d. Proposed redevelopment/reconstruction of sites developed prior to August 12, 1994, shall be subject to the 40 percent open space ratio if the redevelopment razes more than 50 percent of the existing building(s). If the redevelopment does not raze more than 50 percent of the existing building(s), a development shall be subject to a 30-percent open space ratio.

(2) No lot or parcel that was previously developed under a less restrictive open space ratio shall be deemed nonconforming due to lack of compliance with this current more restrictive open space ratio.

(l) *Lot width and lot length.* The minimum average lot width and minimum average lot length shall be 150 feet.(m) *Off-street parking.* In accordance with applicable regulation set forth in section 58-441 of this chapter.(n) *Minimum parking and driveway offset.* No driveway or parking area shall be located closer than 20 feet from a side or rear lot line unless specifically waived by the planning commission.(o) *Minimum parking setback.* No driveway (excluding the portion of driveway required for road access) or parking area shall be located closer than 25 feet to the ultimate road right-of-way.

(Code 1957, § 3.08(1); Ord. No. 99-984, 1-11-2000; Ord. No. 2001-1008, 3-13-2001; Ord. No. 2003-1078, §§ I, II, V, 8-12-2003; Ord. No. 2005-1143, § 11, 9-13-2005; Ord. No. 2008-1238, § I, 4-8-2008; Ord. No. 2008-1259, § I, 11-11-2008; Ord. No. 2010-1316, § I, 6-8-2010)

Sec. 58-517. Permitted and conditional uses.

- (c) *Other animal-related uses, structures and businesses.* No person shall maintain any animal-related use, structure or business except as set forth on Table 58-517(c) or unless otherwise specifically provided for in this division. Each zoning district in which an animal-related use, structure or business may be maintained is set forth on Table 58-517(c), together with, for each category, whether such use is permitted or conditional, the minimum parcel size on which such use may be maintained, any required permit or license and an indication of any specific requirements set forth below for that category. Notwithstanding the foregoing, structures marked below with an (*) may be kept at legal non-conforming residential properties in other zoning districts provided they would be otherwise allowed if the property were a residentially zoned property of a similar size and all other conditions for such structures are satisfied.

Table 58-517(c)

Animal-related uses, structures and businesses	Minimum Lot Size	Zoning Districts	Size	Permitted or Conditional	Permit or License Required	Specific Requirements
Animal hospitals and veterinary clinics	None	Town Center, Arrival Corridor, Neighborhood Commercial		Permitted	None	✓
Animal hospitals and veterinary clinics	None	B-1 , B-2, B-7,	Per conditional use permit	Conditional	Conditional use permit	✓
Bee hives (*)	None	R-1 to R-5, A-1, A-2, OA, P-1	Two hives for one-fourth acre and one additional hive for each additional half acre	Permitted	None	✓
Commercial fish hatcheries	None	A-1, A-2	Per conditional use permit	Conditional	Conditional use permit	
Dog houses and dog runs (*)	None	R-1 to R-4, A-1, A-2, OA	Per specific requirements	Permitted	None	✓
Kennels	None	A-1, A-2, OA, B-2, B-4, B-5	Per conditional use permit	Conditional	Conditional use permit;	✓
Stables, barns, poultry houses, riding arenas and other similar structures for animals (*)	1.5 acres	R-1 to R-4, OA, A-1, A-2	1,000 square feet or less	Permitted	None	✓
Stables, barns, poultry houses, riding arenas and	1.5 acres	R-1 to R-4, OA, A-1, A-2	Over 1,000 square feet	Permitted	None	✓

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(Supp. No. 51)

other similar structures for animals (*)						
Pet daycares	None	B-4, B-5, Arrival Corridor, NC	Per conditional use permit	Conditional	Conditional use permit	✓
Pet stores	None	LTD	Per conditional use permit	Conditional	Conditional use permit	
Pet supply stores and pet grooming facilities	None	B-4, B-5, Arrival Corridor, NC	Per conditional use permit	Conditional	Conditional use permit	✓
Riding academies	None	A-1, A-2, OA	Per conditional use permit	Conditional	Conditional use permit	
Riding stables	None	A-1, A-2, OA	Per conditional use permit	Conditional	Conditional use permit	

- (d) Tables 58-517(a) and 58-517(b) set forth the maximum number of animals that may be kept on a property. If an animal allowed on a property gives birth, the newborns shall not be counted against the total allowed animals until the following ages:

Equine animals and camelids — 7 months

Swine — 4 months

All other livestock — 3 months

Poultry — 3 months

Dogs and cats — 5 months

- (e) Any animal or animal-related use, structure or business not listed in Tables 58-517(a), 58-517(b) or 58-517(c) as either permitted or conditional for a district shall be prohibited. Without limiting the generality of the foregoing, wild animals are prohibited in the city except as described in section 58-523.
- (f) If the minimum lot size for a zoning district is greater than a minimum lot size specified in Tables 58-517(a), 58-517(b) or 58-517(c), such greater lot size shall control.

(Ord. No. 2019-1543, Exh. A, 4-9-2019; Ord. No. 2019-1551, § I(Exh. A), 9-10-2019; Ord. No. 2021-1594, § I(Exh. A), 8-10-2021; Ord. No. 2021-1609, § I(Exh. B), 12-14-2021)



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Office of Administration

TO: Public Welfare Committee
FROM: Brian Sajdak, City Attorney
DATE: October 6, 2022
SUBJECT: Nuisances Ordinance Amendments

November Update

At last month's meeting, the Committee indicated support for a number of concepts that have been incorporated into the proposed revisions that are part of the packet. Specifically, the proposed revisions include the addition of barking dogs (and similar animal noises) and repeated violations of the municipal code as specifically enumerated nuisances. The second of these additions results in consistent treatment for all departments where they continually addressing the same violation/offender. The proposed revisions also address the discrepancy identified by Ald. Schneider related to noise issues. Lastly, the proposed revisions streamlines the process for abating nuisances.

Should the Committee have additional thoughts or proposed modifications, those can be addressed at this month's meeting. The thought would be that the all of the proposed revisions could then be placed into a proposed ordinance which could be presented in December for your consideration.

Background

The Committee has asked to look at the nuisance code for potential amendments. From staff's perspective, the primary need for this review is based on experience and comments from prior mayors concerning the somewhat byzantine process contained in the current code. The current code contains basically two topics. The first topic, consisting of sections 50-1 through 50-4, defines what constitutes a nuisance. The second topic covers the process for abating a nuisance.

Discussion

Of the two topics, the first is the area with little need for suggested changes. The various activities and conditions defined to be nuisances is fairly comprehensive and similar to most other communities. The two things, based on experience, the City may wish to add as explicit public nuisances would be the storage/parking of vehicles and general property maintenance issues. Examples of this type of language are attached. Similarly, the City's code already contains language about chronic nuisance properties, but this section is limited to excessive police service. This could be expanded to include excessive inspection services also.

The second topic is more complicated. Under the current code, a nuisance complaint that has been made first must be inspected by the health officer or the police chief, who then prepares a written report of findings. If a nuisance exists, the report gets filed with the mayor who then submits them to the clerk for a hearing before the common council. The common council may order the abatement of the nuisance. There are a few problems with this approach. First, the inspecting officer often does not make sense - we don't really have a health officer, and the police department lacks the experience and training to address many potential nuisances (like building code violations). Second, in many cases, nuisance properties often have history with the

various departments. In these cases, orders to correct and municipal citations have been utilized but have failed to bring about compliance. Based on that, it is foolish to believe that a new investigation and an appearance before the common council will suddenly make a non-cooperative property owner cooperative. For these reasons, the code should be amended to streamline the process and to ensure that the appropriate city officials are involved in the proposes. Sample language for this is also attached.

Recommendation

At the Committee meeting, staff is looking for direction on which proposed changes should be made. In addition, if there are other areas of concern, staff looks forward to hearing these concerns so that proposed corrections can be made.

Attachments:

City of Mequon Chapter 50 - NUISANCES (DOCX)

Germantown Nuisance Examples (DOCX)

Franklin Nuisance Examples (PDF)

Proposed Revisions (PDF)

PART II - CODE OF ORDINANCES
Chapter 50 - NUISANCES
ARTICLE I. IN GENERAL

ARTICLE I. IN GENERAL

Sec. 50-1. Public nuisance defined and prohibited.

- (a) A public nuisance is a thing, act, occupation or use of property, which shall repeatedly occur or continue for a sufficient length of time so as to:
 - (1) Injure or endanger the safety, health, comfort or repose of the public;
 - (2) Offends public morals or decency;
 - (3) Unlawfully interfere with, obstruct, or tend to obstruct or render dangerous for passage a lake, navigable river, bay, stream, canal or basin or a public park, square, street, alley or highway;
 - (4) In any way render the public insecure in life or in the use of property;
 - (5) Generate three or more calls for police service for nuisance activities which occur at a premises, within a calendar year, in accordance with section 50-6 below.
- (b) In all cases where no provision is herein made defining what are nuisances and how the same may be removed, abated, or pre-vented, in addition to what may be declared herein, those offenses which are known to the common law of the land and the Wisconsin Statutes as nuisances, may, in case the same exist within the city limits, be treated as such offenses and proceeded against as provided in this section or in accordance with other provisions of law.
- (c) No person shall within the city, cause or create a public nuisance or permit a public nuisance to remain on premises owned or occupied by him.

(Code 1957, § 13.01; Ord. No. 2014-1418, § I, 4-8-2014)

Sec. 50-2. Public nuisances affecting health.

- (a) No person shall within the City of Mequon, cause or create any public health nuisance or permit any public health nuisance to remain on premises owned or occupied by him.
- (b) The following are hereby specifically declared to be nuisances affecting the public health:
 - (1) All decayed, spoiled, tainted, unwholesome or harmfully adulterated food, drink or drugs offered for sale to the public;
 - (2) All ponds or pools of stagnant water in which mosquitoes, flies or other insects can multiply;
 - (3) Carcasses of animals or fowl not buried, destroyed or otherwise disposed of in a sanitary manner within 24 hours after death;
 - (4) Accumulations of decayed animal or vegetable matter, trash, manure, rubbish, rotting lumber or other debris to which are attracted flies, mosquitoes, insects, rats or other vermin;
 - (5) Privy vaults and garbage cans which are not fly tight;
 - (6) Pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial waste or other substances;

- (7) All noxious weeds as follows: Canada thistle, leafy spurge, field bindweed (creeping Jenny), and burdock, poison ivy, common ragweed and giant ragweed;
- (8) Dense smoke, noxious fumes, gas, soot, cinders, fly ash or industrial dust in such quantities as to render the occupancy of property dangerous or uncomfortable to a person of ordinary sensibilities;
- (9) Any dilapidated structure or building which harbors or is infested with vermin or rodents.
- (10) The presence of wastewater or sewage effluent from buildings on the ground surface, backing up into the building and/or running into a surface water body, caused by a damaged, malfunctioning, improperly constructed or inadequately maintained private sewage system or private sewage lateral; also, any wastewater or sewage effluent that is not handled and disposed of in compliance with all applicable county and state codes.

(Code 1957, § 13.02; Ord. No. 74-317, 6-4-1974; Ord. No. 2020-1583, § III, 12-8-2020)

Sec. 50-3. Public nuisances affecting morals and decency.

- (a) No person shall within the City of Mequon, cause or create a public morals or decency nuisance or permit such nuisance to remain on premises owned or occupied by him.
- (b) The following are hereby specifically declared to be public nuisances offending public morals and decency:
 - (1) All gambling devices, slot machines and punch boards, except as approved by the state;
 - (2) All houses kept for the purpose of prostitution or gambling.

(Code 1957, § 13.03; Ord. No. 89-679A, 4-11-1989)

Sec. 50-4. Public nuisances affecting peace and safety.

- (a) No person shall within the City of Mequon, cause or create a public peace or safety nuisance or permit such nuisance to remain on premises owned or occupied by him.
- (b) The following are specifically declared to be nuisances disturbing the public peace or endangering the public safety:
 - (1) All trees, hedges, billboards of other obstructions which prevent persons driving automobiles or other vehicles on the city streets from having a clear view of traffic approaching an intersection from cross streets;
 - (2) All loud, discordant or unnecessary noises and annoying vibrations;
 - (3) All open or unguarded wells, cisterns, pools or excavations so located as to endanger public safety or the safety of children;
 - (4) All buildings, walls and other structures, which have been damaged by fire, decay or otherwise to an extent exceeding one-half their assessed value;
 - (5) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use;
 - (6) All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as an official traffic control device placed or maintained upon or in view of any public highway, street, alley or railway crossing;

- (7) All hanging signs, awnings and other similar structures over the streets, alleys or public ways of the city or projecting more than six feet over the sidewalks or so situated or constructed as to endanger the public safety;
- (8) All tree limbs which are less than ten feet above the surface of any public sidewalk or 14 feet above the surface of any street;
- (9) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- (10) The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.

(Code 1957, § 13.04)

Sec. 50-5. Abatement of nuisances.

- (a) *Inspection of premises.* Whenever complaint is made to the mayor by a private citizen or any official or employee of the city that a public nuisance exists within the City of Mequon, the mayor, official or employee shall promptly notify the health officer and the chief of police who shall inspect or cause to be inspected the premises upon which such nuisance is alleged to exist and shall make a written report of their findings to the mayor.
- (b) *Summary abatement procedure.*
 - (1) *Notice to owner or occupant.* If the inspecting official shall determine that a public nuisance exists on private property and that there is great and immediate danger to the public health, safety, morals, decency or peace, the mayor shall direct the chief of police to serve notice on the owner or upon the occupant, if the owner is a non-resident or cannot be found, and to post a copy of said notice on the premises. Such notice shall direct the owner or occupant, as the case may be, to abate or remove such nuisance within a reasonable time of not less than 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 or occupant as the case may be.
 - (2) *Failure of owner or occupant to abate nuisance.* If the owner or occupant fails to comply with the aforesaid notice within the time limited or if he cannot be found, the health officer, in the case of health nuisances, and the chief of police in all other cases shall cause the abatement or removal of such public nuisance.
- (c) *Abatement in other cases.*
 - (1) *Notice to owner or occupant.* If the inspecting official 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, morals, decency or peace, they shall file written reports of their findings with the mayor, who shall forthwith direct the city clerk to issue a notice to the owner or occupant of the premises requiring him to appear before the common council at a regular or special meeting thereof on the day and time appointed by the mayor and then and there show cause, if any there be, why said nuisance should not be abated and removed at the cost and expense of the owner or occupant, as the case may be. A copy of said notice shall be served upon the owner or occupant of said premises by the chief of police at least ten days prior to the date set for hearing, or if the owner of the premises is a non-resident or cannot be found, a copy of such notice shall be published in the official newspaper and a like copy mailed to the owner directed to his last known address as shown by the records of the city treasurer at least 15 days before the date set for hearing.

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(Supp. No. 51)

- (2) *Hearing.* At the time set for hearing the common council shall hear testimony relative to the facts and shall enter written findings thereon. If the council shall find that the public nuisance exists on said premises or is kept or maintained or allowed by the owner or occupant, it shall order the owner or occupant, as the case may be, to abate the same.
- (3) *Failure of owner or occupant to abate.* In the event that the owner or occupant shall fail to comply with the order of abatement of the common council, the council shall, without further notice, order the chief of police to comply therewith and to make return of the cost and expense of abating or removing such nuisance to the city treasurer.
- (d) *Cost of abating nuisance.* In addition to any other penalty imposed under this chapter for the maintenance of a nuisance, the cost of abating or removing a nuisance by the city shall be collected from the owner or occupant or person causing, permitting or maintaining said nuisance or, if notice to abate such nuisance has been given to the owner, such costs may be charged against the premises and assessed against the real estate as other special taxes.
- (e) *Remedies not exclusive.* In addition to the methods of abatement of public nuisances specified in this section, the mayor or common council may also institute an action in the Ozaukee County circuit court for abatement of any public nuisance existing within the limits of the City of Mequon in accordance with the provisions of Wis. Stats. ch. 823.

(Code 1957, § 13.05)

Sec. 50-6. Chronic nuisances premises.

- (a) *Findings.* The city council finds that any premises that generates three or more responses in a one year period by the police department for nuisance activities as defined in subsection (b) below, has received more than the appropriate level of general and adequate city service and has placed an undue and inappropriate burden on the taxpayers of the city. The common council therefore authorizes the chief of police, as provided in this chapter, to require the premises owner or occupant to comply with nuisance abatement plans and to charge the owner or occupant of such premises the costs associated with abating the violations at the premises where nuisance activities chronically occur as set forth in section 50-9.
- (b) *Definitions.* The following terms shall be defined as follows in this article, and the singular includes the plural and the plural includes the singular:

Chief means the chief of police or his or her designee.

Owner means a person who has legal title or possession, charge, care or control of premises, including as executor, administrator, trustee, or guardian of the estate of a person or property.

Person includes a corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, limited liability company or any other legal entity.

Person associated with premises means the premises owner, operator, manager, resident, occupant, guest, visitor, or person present on the premises (other than trespasser) or employee or agent of any of the above persons associated with the premises.

Police department response means a sworn, on-duty city police officer is dispatched to a premises in response to a good faith report of nuisance activity, as defined below, occurring or having occurred at the premises, which complaint said officer finds to be credibly supported during his/her investigation, and which results in an arrest, or the issuance of a citation, or a criminal or juvenile complaint.

Premises means an individual building, dwelling, or dwelling unit and associated common areas or vacant land.

Nuisance activity means any of the following activities, behaviors, or conduct whenever engaged in by persons associated with a premises that causes or results in:

- (1) An act of harassment, as defined in Wis. Stats. § 947.013;
 - (2) Disorderly conduct, as defined in Wis. Stats. § 947.01;
 - (3) Battery, substantial battery, or aggravated battery, as defined in Wis. Stats. § 940.19;
 - (4) Lewd and lascivious behavior, as defined in Wis. Stats. § 944.20;
 - (5) Prostitution, as defined in Wis. Stats. § 944.30;
 - (6) Theft, as defined in Wis. Stats. § 943.20;
 - (7) Receiving stolen property, as defined in Wis. Stats. § 943.34;
 - (8) Arson, as defined in Wis. Stats. § 943.02;
 - (9) Possession, manufacture, or delivery of a controlled substance or related offenses, as defined in Wis. Stats. Ch. 961;
 - (10) Gambling, as defined in Wis. Stats. § 945.02;
 - (11) Trespassing, as defined in Wis. Stats. §§ 943.13 and 943.14;
 - (12) The execution of arrest or search warrants at a particular premises;
 - (13) Alcohol violations, as defined in section 14-24 of the Code, and Wis. Stats. § 125.07;
 - (14) Obstructing or resisting an officer, as defined in Wis. Stats. § 946.41;
 - (15) Violation of occupancy restrictions, as defined in the Code;
 - (16) Any conspiracy to commit, as defined in Wis. Stats. § 939.31, or attempt to commit, as defined in Wis. Stats. § 939.32, any of the activities, behaviors, or conduct enumerated in this subsection (b);
 - (17) Making, continuing or causing to be made any loud, disturbing or unnecessary sounds or noises emanating from or in the proximity to a premises by persons associated with that premises, such as horns, whistles, music amplification equipment, public address systems; and construction or repair machinery or garden and lawn equipment between the hours of 10:00 p.m. and 6:00 a.m., which would tend to annoy or disturb a person of ordinary sensibilities in the proximity of the premises.
- (c) *Chronic nuisance notice to property owner.* Whenever the police department has responded to three or more nuisance activities that have occurred at a premises during any consecutive 12-month period, the chief may notify the premises owner or occupant in writing that the premises constitutes a chronic nuisance. In calculating the requisite nuisance activities, the chief may count separate qualifying nuisance activities occurring on the same day (as long as they are distinct in time) or different days and further may consider whether or not to count a qualifying nuisance activity when it is reported by a person associated with the premises under circumstances that would encourage and not penalize self-reporting and facilitate police response for the benefit of the community.

Pursuant to Wis. Stats. § 66.0627(7), police department responses related to (a) domestic abuse, as defined in § 813.12 (1) (am), (b) sexual assault, as described under §§ 940.225, 948.02, and 948.025, or (c) stalking, as described in § 940.32 shall not be used in calculating the nuisance activities to constitute a chronic nuisance.

The notice shall contain the street address or legal description sufficient to identify the premises, a description of the nuisance activities that have occurred at the premises, a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to the appeal rights of the owner.

- (d) The notice required in subsection (c) above shall be deemed to be properly delivered if sent either by first class mail to the premises owner's or occupant's last known address (deemed delivered on third day after depositing in mail) or if delivered in person to the premises owner. If the premises owner or occupant cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's or occupant's usual place of abode in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first class mail to the last known address of the owner or occupant as listed in city records.

(Ord. No. 2014-1418, § I, 4-8-2014)

Sec. 50-7. Abatement plan.

Any owner receiving notice pursuant to section 50-6 shall meet with the chief within five days of receipt of such notice. The parties shall review the nuisance activities occurring at the premises for the purpose of determining the appropriate abatement plan for the premises. Within ten days of this meeting unless the chief agrees in writing to a longer period, the owner shall comply with the abatement plan agreed upon with the chief to end the nuisance activity on the premises. The plan shall also specify a name, address, telephone number and if applicable a fax number and e-mail address of a person living within 60 miles of the premises who can be contacted in the event of further police, fire, or inspection contact.

(Ord. No. 2014-1418, § I, 4-8-2014)

Sec. 50-8. Penalties for failure to comply with abatement plan.

Any person failing to comply with the abatement plan under section 50-7 shall be subject to a penalty as provided under section 1-7 of the Code.

(Ord. No. 2014-1418, § I, 4-8-2014)

Sec. 50-9. Additional nuisance activity.

If additional nuisance activity shall occur within 12 months after the notice authorized under subsection 50-6(c) has been issued to the owner or occupant, and this additional nuisance activity has occurred not less than 15 days after such notice had been served, and the chief determines that reasonable efforts have not yet been made to abate the nuisance activity, then the chief shall calculate the cost of police department personnel response for this additional and any subsequent nuisance activities occurring within 12 months of the last nuisance activity, and shall prepare a statement of such costs to be assessed to the owner or occupant of the premises as a special charge against the property. The chief shall send the assessment of the cost of police response to the premises owner or occupant and notify the owner or occupant in writing that the assessment must be paid within 30 days or it will be levied and collected as a special charge pursuant to Wis. Stats. § 66.0627. This assessment of police costs and the notice shall be prepared and delivered in the manner provided for in section 50-6, and the chief shall provide a copy to the office of the city treasurer.

(Ord. No. 2014-1418, § I, 4-8-2014)

Sec. 50-10. Eviction or retaliation prohibited.

- (a) It shall be unlawful for a landlord to terminate the lease agreement or periodic tenancy of any tenant or otherwise retaliate against any tenant because that tenant complained to the chief about nuisance activity

on the landlord's premises. It shall be presumed that any attempt to increase charges, reduce services, or to otherwise harass or retaliate against the tenant during the twelve-month period following receipt of the complaint by the chief constitutes unlawful retaliation under this subsection. Such presumption shall be rebutted by the preponderance of evidence that the actions taken by the landlord were based upon good cause. "Good cause" as used in this subsection means that a landlord must show good cause for his or her actions, other than one related to or caused by the operation of this section. Notwithstanding the foregoing, a tenant's lease agreement or periodic tenancy may be terminated for a failure to pay rent; committing nuisance activity as defined in section 50-67; violating the terms and conditions of the lease agreement or periodic tenancy or as otherwise provided in Wis. Stats. ch. 709, and ch. Ag. 134, Wis. Adm. Code. A landlord's failure to renew a lease agreement or periodic tenancy upon expiration of such lease agreement or periodic tenancy shall not be deemed a violation of this subsection.

- (b) Any person violating the above section shall be subject to a penalty as provided under section 1-7 of the Code.

(Ord. No. 2014-1418, § I, 4-8-2014)

Sec. 50-11. Appeal.

The chief's decision under sections 50-6 through 50-9 may be appealed to the board of appeals in accordance with the provisions of section 58-41 of the Code, except that any appeal of the chief's decision(s) under sections 50-6 through 50-9 of the Code must be filed within 15 days of receipt of the written decision or order being appealed. The board of appeals, after deciding such appeal(s) under this article, shall transmit a signed copy of the board's decision to the appellant and to the chief.

(Ord. No. 2014-1418, § I, 4-8-2014)

Secs. 50-12—50-80. Reserved.

10.06 JUNK AND JUNKED VEHICLES.

- (1) **PUBLIC NUISANCES DECLARED.** The following are hereby declared to be public nuisances wherever they may be found within the Village:
 - (a) Any motor vehicle, truck body, tractor or trailer as enumerated in subsection (2) below and defined in subsection (4)(a), (b) and (c) below.
 - (b) Any junk as set forth in subsection (3) below and defined in subsection (4)(d) below.
- (2) **STORAGE OF VEHICLES RESTRICTED.**
 - (a) 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 property within the Village for a period exceeding 10 days unless it is in connection with an automotive sales, repair or storage business enterprise located in a properly zoned area, or a junk yard licensed under section 12.17 of this Code.
 - (b) Any business engaged in automotive sales or repair may retain such vehicles in the open, on private property, for a period not to exceed 30 days, after which such vehicles must be removed.
- (3) **STORAGE OF JUNK PROHIBITED.** No person, except a junk dealer licensed under section 12.17 of this Code, shall accumulate, store or allow any junk outside of any building on any real estate located in the Village.
- (4) **DEFINITIONS.**
 - (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, tools, discarded building materials, or any other unsightly debris, the accumulation of which has an adverse effect upon neighborhood or Village property values, health, safety or general welfare.
- (5) **ISSUANCE OF CITATION; ACTION TO ABATE.** Whenever the Police Department shall find any such vehicle or junk, as defined in subsection (4) above, accumulated, stored or remaining in the open upon any property within the Village contrary to the provisions of subsections (2) and (3) above, they shall notify the owner of said property on which such vehicle or junk is located of the violation of this section. If such vehicle or junk is not removed within 10 days, the Police Department shall cause a citation to be issued to the property owner or the occupant of the property upon which such vehicle or junk is located. In addition, action to abate such nuisance may be commenced, as provided in section 10.07(3) of this chapter.
- (6) **PENALTY.** (Am. Ord. #43-98) Any person who shall be adjudicated to have violated any of the provisions of this section shall be subject to a penalty as provided in section 25.04 of this Code. Each day that a violation of this section continues shall be deemed a separate offense.

State law reference(s)—Abandoned vehicles, Wis. Stats. § 342.40.

10.065 PROPERTY MAINTENANCE CODE. (Cr. Ord. #38-87)

- (1) **TITLE.** This section shall be known as "The Property Maintenance Code," and may be referred to in this section as "this code".

- (2) **FINDINGS AND DECLARATION OF POLICY.** It is hereby found and declared that there exist, in the Village, structures used for residential and nonresidential use which are, or may become in the future, substandard with respect to structure, equipment or maintenance or, further, that such conditions, including, but not limited to, structural deterioration, lack of maintenance and appearance of exterior of premises, infestation and existence of fire hazards constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of the Village. It is further found and declared that, by reason of lack of maintenance and because of progressive deterioration, certain properties have the further effect of creating blighting conditions and initiating slums, and that if the same are not curtailed and removed, these conditions will grow and spread and will necessitate, in time, the expenditure of large amounts of public funds to correct and eliminate such conditions, and that, by reason of timely regulations and restrictions contained in this code, the desirability and amenities of residential and nonresidential uses and neighborhoods may be enhanced and the public health, safety and welfare protected and fostered.
- (3) **PURPOSE.** The purpose of this code is to protect the public health, safety, morals and welfare by establishing minimum standards governing the maintenance, appearance and condition of residential and nonresidential premises; to fix certain responsibilities and duties upon owners and operators and distinct and separate responsibilities and duties upon occupants; to authorize and establish procedures for the inspection of residential and nonresidential premises; and to provide for the repair, demolition or vacation of premises unfit for human habitation, occupancy or use.
- (4) **DEFINITIONS.** The following words and terms, wherever used herein or referred to in this code, shall have the respective meanings assigned to them unless a different meaning clearly appears from the context;
- (a) Deterioration. (Am. Ord. #23-97) The condition of a building or part thereof characterized by holes, breaks, rot, crumbling, peeling, rusting or other evidence of physical decay or neglect, lack of maintenance or excessive use. All exterior wood and composition surfaces shall be properly protected from the elements and against decay by paint, stain or other protective coating and applied in a workmanlike manner.
 - (b) Elements. Any element, whether created by nature or by man, which, with reasonable foresee ability, could carry litter from one place to another. Elements shall include, but not be limited to, air current, rain, water current and animals.
 - (c) Exposed to Public View. Any premises, or any part thereof, or any building, or any part thereof, which may be viewed by the public.
 - (d) Exterior of the Premises. Open space on the premises outside of any building thereon.
 - (e) Extermination. The control and elimination of insects, rodents and vermin.
 - (f) Garbage. Decayed and decomposed animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food. (See also Refuse and Rubbish.)
 - (g) Infestation. The presence of insects, rodents, vermin or other pests on the premises which constitute a health hazard.
 - (h) Litter. Includes any uncontainerized man-made or man-used waste which, if deposited within the Village otherwise than in a litter receptacle, tends to create a danger to public health, safety and welfare or to impair the environment of the citizens of the Village. Litter may include, but is not limited to, any garbage, trash, refuse, confetti, debris, grass clippings or other lawn or garden waste, newspaper, magazine, glass, metal, plastic or paper container or other construction material, motor vehicle part, furniture, oil, carcass of a dead animal or nauseous or offensive matter of any kind or any object likely to injure any person or create a traffic hazard.
 - (i) Mixed Occupancy. Any building containing one or more dwelling units or rooming units and also having a portion thereof devoted to nondwelling uses or used as a hotel.

- (j) Nuisance.
1. Any public nuisance, as defined by statute or this chapter.
 2. Physical conditions dangerous to human life or detrimental to health of persons on or near the premises where the conditions exist.
- (k) Operator. Any person who has charge, care or control of a dwelling or premises, or part thereof, whether with or without the knowledge and consent of the owner.
- (l) Owner. Any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof. Any person who is a lessee subletting or reassigning any part or all of any dwelling or dwelling unit shall be deemed to be a co-owner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by said lessee.
- (m) Park. A public or private park, reservation, play ground, beach, recreation center or any public or private area devoted to active or passive recreation or any other area under the supervision of the Village.
- (n) Parking Lot. Any private or public property with provisions for parking vehicles to which the public is invited or which the public is permitted to use or which is visible from any public place or private premises.
- (o) Premises. A lot, plot or parcel of land, including the buildings or structures thereon.
- (p) Private Premises. Any dwelling house, building or other structure designed to be used, either wholly or in part, for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, mailbox or other structure belonging or appurtenant to such dwelling house, building or other structure.
- (q) Public Place. All streets, boulevards, avenues, lanes, alleys or other public ways and parks, squares, plazas, grounds and buildings frequented by the general public, whether publicly or privately owned.
- (r) Refuse. All decayed and decomposed solid waste, except body wastes, including, but not limited to, garbage, rubbish, ashes, dead animals, abandoned automobiles and solid wastes. (See also Garbage and Rubbish.)
- (s) Rubbish. Solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials. (See also Garbage and Refuse.)
- (5) **APPLICABILITY**. Every residential, nonresidential or mixed-occupancy building and the land on which it is situated, used or intended to be used for dwelling, mobile home park, commercial, business or industrial occupancy shall comply with the provisions of this code, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this code.
- (6) **DUTIES AND RESPONSIBILITIES OF OWNERS AND OPERATORS.**
- (a) Maintenance of Exterior of Premises. The exterior of the premises and all structures thereon shall be kept free of all nuisances and any hazards to the safety of the occupant, pedestrians and other persons utilizing the premises, and free of unsanitary conditions, and any of the foregoing shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free of hazards which include, but are not limited to, the following:
1. Refuse, such as brush, weeds, broken glass, stumps, obnoxious growths, filth, garbage, trash and debris.

2. Natural growth, such as dead and dying trees and limbs or other natural growth which, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard to persons in the vicinity. Trees shall be kept pruned and trimmed to prevent such conditions.
 3. Overhangs, such as loose and overhanging objects which, by reason of location above ground level, constitute a danger of falling on persons in the vicinity.
 4. Sources of infestation.
 5. The exterior of the premises, the exterior of structures and the condition of accessory structures shall be maintained so that the appearance of the premises and structures shall not constitute a blighting factor.
- (b) Storage of Commercial and Industrial Material . There shall not be stored or used at a location visible from the sidewalk, street or other public areas, equipment and materials relating to commercial or industrial use unless permitted under chapter 17 of this Code for the premises.
- (c) General Maintenance . The exterior of every commercial structure or accessory structure, except accessory farm structures, including fences or enclosures, shall be maintained in good repair. The same shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint, loose boards or other conditions reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated and adjoining properties protected from blighting influences.
- (7) **LITTER CONTROL.**
- (a) Litter Collection and Storage Area . Every owner, occupant or lessee of a building used for residential, business or commercial purposes shall maintain litter collection and storage areas in a clean condition and insure that all litter is properly containerized. Failure to so maintain clean litter collection and storage areas shall constitute a violation of this subsection.
- (b) Duty to Collect Litter Before it is Carried From the Premises . All litter that is subject to movement by the elements shall be secured by the owner of the premises where it is found before the litter is allowed to be removed from the premises by the elements.
- (c) Neglected Premises Visible to the Public . It shall be the duty of any person owning or controlling any premises, including vacant lots visible from any public place or private premises, to maintain such premises in a reasonably clean and orderly manner. It shall be a violation of this subsection to abandon, neglect or disregard the condition or appearance of any premises so as to permit it to accumulate litter.
- (d) Areas Around Business Premises . The owner or person in control of any public place, including, but not limited to, restaurants, shopping centers, fast food outlets, stores, hotels, motels, industrial establishments, office buildings, apartment buildings, housing projects, gas stations, hospitals and clinics shall at all times keep the premises clean of all litter and shall take measures, including daily cleanup of the premises, to prevent litter from being carried by the elements to adjoining premises. It shall be a violation of this subsection to abandon, neglect or disregard the condition or appearance of such premises so as to permit it to accumulate litter.
- (e) Loading and Unloading Docks . The person owning, operating or in control of a loading or unloading dock shall at all times maintain the dock area free of litter in such a manner that litter will be prevented from being carried from the premises by the elements.
- (f) Construction Sites . The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such a manner that litter will be prevented from being carried from the premises by the elements. All litter from construction activities or any related activities shall

be picked up at the end of each work day and placed in containers which will prevent litter from being carried from the premises by the elements.

- (g) Maintaining Sidewalks and Alleys. Persons owning, occupying or in control of any premises shall keep the sidewalks and alleys adjacent thereto free of litter. Owners or occupants shall sweep or rinse off the sidewalks abutting their premises as often as may be required to keep the walk reasonably free from dirt, paper and waste. This paragraph shall not apply to side walks maintained by the Village as provided in section 8.09(1)(a) of this Code.
- (h) Abandoned Garbage. It shall be unlawful for any person who is in control of any premises upon which is located or on whose behalf there is maintained any container of refuse, waste or garbage, which has been containerized in accordance with a contract for its removal, to allow that refuse, waste or garbage to remain uncollected for longer than 7 days or, in any case, until after that refuse, waste or garbage creates any condition which is offensive to persons upon any private premises or public place.
- (i) Animal Excreta. (Am. Ord. #45-92, Am. Ord. #42-02)
 - 1. *Allowing Discharge Regulated*. It is unlawful for any owner, keeper or walker of any dog, Philippine pot-bellied pig or cat to have his dog, pot-bellied pig or cat discharge such animal's feces upon any public or private property within the Village other than the property of the owner of such dog, pot-bellied pig or cat if such owner, keeper or walker does not immediately thereafter remove and clean up such animal's feces from the public or private property.
 - 2. *Carrying Feces Scoop Required*. No person shall walk a dog or pot-bellied pig beyond the limits of his own property without carrying or having in his possession a scoop, bag or other items designed to pick up and remove dog feces; and, further, it is unlawful for any person to dispose of the dog or pot-bellied pig feces on public or private property other than his own.
 - 3. *Exception*. This subsection shall not apply to blind persons having control of guide dogs.

(7a) **LAWN AND YARD MAINTENANCE.** (Cr. Ord. #29-94)

- (a) Definitions. The terms used herein are defined as follows:
 - 1. *Turf Grass*. Grass commonly used in regularly cut lawns or play areas such as, but not limited to, blue grass, fescue and rye grass-blends.
 - 2. *Natural Lawn*. Any land managed to preserve or restore native Wisconsin grasses and forbes, native trees, shrubs, wild-flowers and aquatic plants.
- (b) General Lawn Requirements. (Rep. & Recr. Ord. #06-15)
 - 1. The owner or occupant of any lot or parcel in the Village shall install and maintain landscaping, plantings and other decorative surface treatments, including turf grass, so as to present an attractive appearance in all court and yard areas in accordance with generally accepted landscaping practices in southeastern Wisconsin. Lawns shall be maintained to a height not to exceed 12 inches. Plantings shall be maintained so as not to present hazards to adjoining properties or to persons or vehicles traveling on public ways and shall be maintained so as to enhance the appearance and value of the property on which located and thereby the appearance and value of the neighborhood and the Village.
 - 2. The provisions of this paragraph (b) do not apply to:
 - i. Any lot or parcel located within an agricultural zoning district that is more the 5 acres in size and is actively put to agricultural use.
 - ii. Any lot or parcel excepted from these provisions as provided in paragraph (c) below.

- (c) Natural Lawn Exception; Registration and Fee. Any owner or occupant of a lot or parcel subject to paragraph (b) above and desiring a natural lawn may register for a natural lawn, as defined in paragraph (a)2., above, where grasses and forbes exceed 12 inches in height, with the Village Weed Commissioner, provided that such plantings meet the requirements of this subsection. The Weed Commissioner shall provide registrants with a copy of this subsection. A copy of the lot survey should be submitted showing the area to be planted, a list of plants, seeds or forbes to be planted must be submitted and whether the property will be cultivated prior to planting or have plugs inserted in the area. The registration shall be accompanied by a fee of \$15.00.
- (d) Maintenance of Setbacks and Drainage Swales. A 10-foot setback on any street frontage and a 5-foot side and rear setback of all natural lawns shall be maintained in accordance with paragraph (j) above. In addition, all drainage swales shall be free of plantings and maintained in accordance with paragraph (b) above. Adjacent neighbors may agree to waive setbacks for encroachment on setbacks outside drainage swales; such waivers shall be in writing and filed with the Weed Commissioner. In addition, a 5% area exclusive of the setback area shall be left open for maintained paths. The setback area shall have a height of no more than 12 inches, excluding trees and shrubs.
- (e) Weeds and Plants Prohibited. The owners and occupants of all natural lawns shall destroy all of the following weeds and plants:
1. Canada thistle and all other thistle varieties.
 2. Leafy spurge.
 3. Field bindweed (Creeping Jenny).
 4. Purple loosestrife.
 5. Multiflora rose.
 6. Burdock.
 7. Ragweed.
 8. Garlic mustard.
 9. All weeds enumerated in §§66.955 and 66.96, Wis. Stats.
 10. Turf grass, except in setback areas and designated paths.
- (f) Review and Approval of Land Management Plans. The Weed Commissioner shall review the list of all registered properties within 30 days of the submittal and notify in writing the owner or occupant of any noncompliance of this subsection. The person receiving such notice of noncompliance shall comply with the requirements of this subsection within 10 days of such notification.
- (g) Enforcement. In the event any previously approved natural lawn fails to comply with the requirements of this subsection, such premises shall be deemed a nuisance under this chapter and the Weed Commissioner may order the nuisance abated within 7 days pursuant to section 10.08 of this chapter.
- (h) Appeal. Any person aggrieved by the written determination of the Weed Commissioner to revoke such registration or to abate a nuisance thereto may file a written appeal within 7 days of receiving such written determination with the Health, Education and Welfare Committee. The appeal shall state the reasons for reviewing the determination of the Weed Commissioner. After giving a Class 1 notice, the Committee shall hold a hearing and decide the matter within a reasonable time. The Committee may reverse, affirm or modify the determination of the Weed Commissioner and issue an order accordingly.
- (8) **ENFORCEMENT**. This section shall be enforced by the Building Inspector. In addition, the Police Chief shall enforce subsection (7) above.

- (9) **PENALTY.** Any person who violates, disobeys, neglects or refuses to comply with any of the provisions of this section shall be subject to a forfeiture as provided in section 25.04 of this Code.

10.07 ABATEMENT OF PUBLIC NUISANCES.

- (1) **ENFORCEMENT.** (Am. Ord. #08-09) It shall be the duty of the Chief of Police, the Fire Chief and the Building Inspector 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.
- (2) **SUMMARY ABATEMENT.**
- (a) Notice to Owner. If the inspecting officer shall determine that a public nuisance exists within the Village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Village Administrator 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 Village 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 Village. 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 Village Administrator, who may direct the Village 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 Village 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 section 10.09 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 Village 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.

City of Franklin, WI
Thursday, October 6, 2022

Chapter 178. Nuisances

§ 178-7. Storage and parking regulated.

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

DISREPAIR

Any RV which is unsightly due to a failure to internally or externally be kept in a good state of maintenance.

DRIVEWAY

A paved or unpaved surface providing ingress and egress from a public right-of-way to a structure located on the property.

DWELLING

A building or portion thereof, designed or used for residential occupancy.

HABITATION

The act of inhabiting, dwelling in or residing in.

MOTOR VEHICLE

A self-propelled medium of transportation whose design and use is land-based and which is used for the towing or transport of people, property, materials or animals and includes, but is not limited to, automobiles, trucks, buses, road operable RV's, race cars, off-road vehicles, motorcycles, semi-trucks, motor scooters or mopeds, tractors, vans and other similar devices designed to be legally driven on public streets and highways.

MOTOR VEHICLE, ABANDONED

A motor vehicle which, through disuse and/or failure to be used, remains in one location for a period of 10 consecutive days or more, unless the property owner or occupant provides written proof of intent and ability to use the vehicle within six months, or a motor vehicle which has been reported as stolen to any Police Department.

MOTOR VEHICLE, DISASSEMBLED

Any motor vehicle which has parts, accessories or equipment removed or missing therefrom so that it cannot be operated safely or legally.

MOTOR VEHICLE, INOPERABLE

Any motor vehicle which is incapable of functioning.

MOTOR VEHICLE, JUNK

Any motor vehicle which is partially dismantled, wrecked or damaged in such a manner that it cannot be operated safely or legally upon any thoroughfare.

MOTOR VEHICLE, PARTS

Any part or parts of any motor vehicle or any accessories thereof which affects the safety or operation of such motor vehicle or safety of its occupants.

MOTOR VEHICLE, UNLICENSED

A motor vehicle which does not have affixed to it a current motor vehicle license registration plate or a motor vehicle in which the affixed motor vehicle license registration plate does not belong.

RECREATIONAL VEHICLE OR RV

Any vehicle used for recreational purposes upon or by which any person, animal or property is or may be transported or drawn upon a waterway, road, street, highway or other ground-like surface. This includes, but is not limited to, all terrain vehicles (ATV's), motor-homes, trailers, trailer coaches, fifth wheel trailers, collapsible camping trailers, utility trailers, boat trailers, canoes, boats, snowmobiles, pickup (slide in) campers, truck caps, mini motor-homes, converted and chopped vans (created by altering or changing an existing auto van to make it into a recreational vehicle), private bus, converted bus and other such vehicles used for recreational purposes, but not specifically defined herein.

REMOVAL

The physical relocation of property to a proper location.

ROAD OPERABLE RV

Any RV that is self-propelled and licensable as a roadworthy vehicle, is currently licensed as such and is in an operable condition, including but not limited to motor vehicles which through some adaption have been converted to a road operable RV status.

ROADWORTHY

The ability to be operated safely and legally on roads, streets, highways or other public thoroughfares.

SURFACE, PAVED

Any all-weather hard and permanent surface having a good and sufficient subbase with a Portland cement concrete, plant mix bituminous concrete surface or macadam surface free of dust, loose stones, gravel or any surface that is graded, compacted and maintained so as to be dustfree and of a design to support the traffic.

SURFACE, UNPAVED

Grass and dirt surfaces are to be construed to be an unpaved surface.

YARD, FRONT

That portion of the yard located between the base setback line and the front plane of the building or buildings, including any offset in the structures, extended to each side lot line.

YARD, REAR

A yard extending along the full length of the rear lot line between the side lot lines. On a corner lot, the rear yard shall be that yard directly opposite the front yard.

YARD, REQUIRED SIDE

That portion of the side yard as designated by the side yard area requirements.

YARD, SIDE

A yard extending along a side lot line from the front yard to the rear yard.

B. Junked vehicles.

(1) Prohibited. No person or other entity who owns or controls any premises shall allow themselves or any lessee, tenant or occupant to have disassembled, inoperable, unlicensed, junked or abandoned motor vehicles or parts thereof to be stored or allowed to remain in the open upon any public or private property within the City for a period in excess of 10 days, unless it is in connection with an automotive sales or repair business enterprise located in a properly zoned area and with a zoning compliance permit pursuant to § 15-9.0102 of the Unified Development Ordinance. This shall not apply to vehicles or parts thereof stored in an approved structure. The covering or tarping of a vehicle is not considered storage in an approved structure. [Amended 4-9-2003 by Ord. No. 2003-1747]

(2) Removal.

(a) Upon notification to remove any disassembled, inoperable, unlicensed, junked, abandoned or wrecked motor vehicles or parts of the same, either from the property or to a proper storage facility, the person or other entity in charge of or in control of the property shall not cause removal of the same vehicle to any other private property upon which such storage is not in compliance with this Code.

(b) Whenever the Code Enforcement Officer, Building Inspector or Assistant Building Inspector shall find any disassembled, inoperable, unlicensed, junked or abandoned motor vehicles or parts of the same have been removed contrary to Subsection **B(2)(a)**, he or she shall order those vehicles or parts of the same to be removed within 10 days of notice.

(3) Vehicle removal firm responsibility.

(a) All vehicles or vehicle parts removed shall be removed to a storage facility of the removal firm's choosing. The duration of the storage will be for a minimum of 10 days, at the end of which the removal firm may dispose of such vehicles or vehicle parts in any manner it deems desirable, unless previously claimed by the owner.

(b) The removal firm or the operator of the junk or salvage yard to which the vehicles or vehicle parts are removed may charge a fee for the handling and storage of vehicles or vehicle parts that have been removed at the request of the City.

(c) The City shall be held harmless and the vehicle removal firm shall assume full responsibility for all vehicles removed under the terms of this section.

(4) Salvage yards or junkyards exempted. The provisions of Subsections **B(1)** and **(2)** shall not apply to auto salvage yards or junkyards licensed by the City to carry on such business operations.

C. Junk or discarded property. No person or other entity shall store or allow to be stored open to the elements and not in an approved structure on any lot, except in Industrial Districts where specifically approved, any junk or discarded property, including but not limited to refrigerators and other appliances; toilets, sinks and other plumbing fixtures; furnaces; machinery or machinery parts; wood; construction materials; amusement park devices; barrels; old iron; chain; brass; copper; tin; lead; other base metals; paper clippings; rags; rubber; glass, bottles or similar items; and any other debris, equipment or implement.

D. Firewood.

(1) No person or other entity shall store firewood on a parcel of land between the lot line adjoining a public right-of-way and the nearest facade of the principal structure, except that a person may temporarily, not to exceed 14 days, store firewood in the area between the public right-of-way and the nearest facade of the principal structure.

[Amended 12-21-2021 by Ord. No. 2021-2489]

- (2) No person or other entity shall store, to be used as firewood, for more than 30 days, waste construction lumber, pallets, tree cuttings or tree parts, unless such have been cut up or split to usable size and stacked in a neat and orderly manner.

E. Removal of debris.

- (1) No person or other entity shall dispose of rocks, downed trees, stumps, brush, waste building materials or other debris from land development or improvement, building construction, street grading or other activity, except at a licensed landfill site.
- (2) No landowner shall allow an accumulation of rocks, trees, stumps, brush, waste building material or other debris from land development or improvement, building construction, street grading or other activities upon the surface of the land for a period of more than 30 days.
- (3) All landfill operations or other activities of the land that would interfere with mowing shall be leveled off to permit the mowing between May 15 and November 1 of each year. This includes the removal of stones, bottles, wire and other debris that will interfere with the mowing operation.

F. Motor vehicle parking.

- (1) No motor vehicle may be parked upon premises zoned as or employed for residential use unless within a garage or upon a paved or unpaved driveway leading directly from the roadway to the garage or parking stall.
- (2) No parking will be allowed upon any unpaved surface.
- (3) No single-family residential dwelling shall have more than a single driveway ingress/egress point to the public street. The City Council may approve additional ingress/egress points.

G. Storage and parking of RV's and RV parts/equipment. No RV may be stored or parked on premises zoned as or employed for residential use, except as set forth in this subsection.

- (1) Ownership. The RV shall be owned by the property owner or occupant, provided that he or she is a resident of the premises.
- (2) Size limits. No RV or road operable RV which exceeds any one of the following shall be any place on any lot zoned for, used as or employed for residential use: 30 feet in length, eight feet wide and 13 feet six inches in height.
- (3) Yard parking setbacks. No RV may be parked in the side yard abutting a public street without a temporary parking permit, unless the RV is screened by a six-foot-high solid fence or natural screening. Said fence shall comply with all fence regulations. For purposes of this section, natural screening shall mean year-round dense plantings, at least six feet tall at time of planting, and screens at least 50% of the view of the RV, at time of planting, when viewed from the perpendicular on the adjoining street. All RV's in excess of 10,000 pounds' gross weight, unless loading or unloading [see Subsection **G(4)**], are prohibited from parking in the front yard area. Road operable RV's shall be parked either within an enclosed attached garage or detached accessory structure or on a paved or unpaved driveway surface with the side or rear yards, with setbacks conforming with Zoning Ordinance regulations.

[Amended 12-15-1998 by Ord. No. 98-1526]

- (4) Loading and unloading parking. RV's may be parked in the front yard drive area for the sole purpose of loading and unloading for a duration not to exceed two twenty-four-hour nonconsecutive days in any seven-

day period without a temporary parking permit.

- (5) Temporary permit parking. RV's, regardless of size, may be parked in the front yard or the side yard abutting a public street only upon issuance of a temporary permit. Temporary permits may be issued by the Code Enforcement Officer, Building Inspector or Assistant Building Inspector upon application and receipt of a five-dollar permit fee for a period not to exceed two weeks. This permitted time shall not exceed two calendar weeks in any consecutive thirty-day period. ^[1]

[1] *Editor's Note: Original Section 11.07(7)(f), which immediately followed this subsection, was repealed by Ord. No. 94-1297.*

- (6) Parking of disrepaired RV's. Disrepaired RV's shall not be allowed to be stored in the open on any property, but may be stored in an approved structure on the property. The accumulation of RV related parts, debris or related paraphernalia will not be allowed, unless those parts, debris or paraphernalia are stored in an approved structure.
- (7) Maintenance of RV parking area. The ground area under and immediately surrounding RV's or RV equipment shall be maintained free of weeds, noxious weeds, debris, junk or overgrowth. The weeds, noxious weeds or overgrowth shall comply with § 178-3F of this chapter.
- (8) Habitation. No RV shall be used for human or animal habitation, excepting mobile home parks or parks for campers.
- (9) Utilities connection prohibitions. RV's shall have fixed connections to electricity, water, gas or sanitary sewer facilities, excepting when loading or unloading.
- (10) Variance allowance. In those cases where parking is a hardship, as regards space constraints relative to overall size of the RV that are noted, the Code Enforcement Officer, Building Inspector or Assistant Building Inspector, after reviewing the hardship, will be empowered to make an allowance of no more than 10% of the total length of the RV in question.

H. Enforcement.

- (1) Whenever the Code Enforcement Officer, Building Inspector or Assistant Building Inspector shall be advised of or observe any violation of this section, the Code Enforcement Officer, Building Inspector or Assistant Building Inspector shall give notice of the violation to the property owner. If the violation is not corrected, the Code Enforcement Officer, Building Inspector or Assistant Building Inspector may correct or have the violation corrected, and the charges, if any, for such correction shall be entered as a special charge on the tax roll for the property owner.
- (2) In addition, any Enforcement Officer may issue citations for violations of this section pursuant to Chapter 1, General Provisions, § 1-19, or cause abatement procedures or compliance procedures to commence.
- (3) Notwithstanding all other provisions, the City may seek injunctive relief by an action in circuit court.

§ 178-8. Abatement of public nuisances.

- A. Enforcement. The Chief of Police, Chief of the Fire Department, Building Inspector and Health Officer shall enforce those provisions of this chapter that come within the jurisdiction of their offices and make periodic inspections and inspections upon complaint to ensure 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 satisfied himself or herself that a nuisance does in fact exist.

- B. Summary abatement. 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, he or she 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.
- C. Abatement after notice. 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 or she 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 such 10 days, the proper officer shall cause the nuisances to be removed as provided in Subsection **B** or issue citation(s) subjecting the person(s) to § **1-19**, Penalty provisions, of this Code.
[Amended 8-17-2010 by Ord. No. 2010-2017]
- D. 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.
- E. Court order. Except when necessary under Subsection **B**, no officer hereunder shall 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.

Proposed Revisions

Additions are underlined; Deleted text is ~~struck through~~

ARTICLE I. IN GENERAL

Sec. 50-1. Public nuisance defined and prohibited.

- (a) A public nuisance is a thing, act, occupation or use of property, which shall repeatedly occur or continue for a sufficient length of time so as to:
 - (1) Injure or endanger the safety, health, comfort or repose of the public;
 - (2) Offends public morals or decency;
 - (3) Unlawfully interfere with, obstruct, or tend to obstruct or render dangerous for passage a lake, navigable river, bay, stream, canal or basin or a public park, square, street, alley or highway;
 - (4) In any way render the public insecure in life or in the use of property;
 - (5) Generate three or more calls for police service for nuisance activities which occur at a premises, within a calendar year, in accordance with section 50-6 below.
- (b) In all cases where no provision is herein made defining what are nuisances and how the same may be removed, abated, or pre-vented, in addition to what may be declared herein, those offenses which are known to the common law of the land and the Wisconsin Statutes as nuisances, may, in case the same exist within the city limits, be treated as such offenses and proceeded against as provided in this section or in accordance with other provisions of law.
- (c) No person shall within the city, cause or create a public nuisance or permit a public nuisance to remain on premises owned or occupied by him.

Sec. 50-2. Public nuisances affecting health.

- (a) No person shall within the City of Mequon, cause or create any public health nuisance or permit any public health nuisance to remain on premises owned or occupied by him.
- (b) The following are hereby specifically declared to be nuisances affecting the public health:
 - (1) All decayed, spoiled, tainted, unwholesome or harmfully adulterated food, drink or drugs offered for sale to the public;
 - (2) All ponds or pools of stagnant water in which mosquitoes, flies or other insects can multiply;
 - (3) Carcasses of animals or fowl not buried, destroyed or otherwise disposed of in a sanitary manner within 24 hours after death;
 - (4) Accumulations of decayed animal or vegetable matter, trash, manure, rubbish, rotting lumber or other debris to which are attracted flies, mosquitoes, insects, rats or other vermin;
 - (5) Privy vaults and garbage cans which are not fly tight;
 - (6) Pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial waste or other substances;
 - (7) All noxious weeds as follows: Canada thistle, leafy spurge, field bindweed (creeping Jenny), and burdock, poison ivy, common ragweed and giant ragweed;
 - (8) Dense smoke, noxious fumes, gas, soot, cinders, fly ash or industrial dust in such quantities as to render the occupancy of property dangerous or uncomfortable to a person of ordinary sensibilities;

- (9) Any dilapidated structure or building which harbors or is infested with vermin or rodents.
- (10) The presence of wastewater or sewage effluent from buildings on the ground surface, backing up into the building and/or running into a surface water body, caused by a damaged, malfunctioning, improperly constructed or inadequately maintained private sewage system or private sewage lateral; also, any wastewater or sewage effluent that is not handled and disposed of in compliance with all applicable county and state codes.

Sec. 50-3. Public nuisances affecting morals and decency.

- (a) No person shall within the City of Mequon, cause or create a public morals or decency nuisance or permit such nuisance to remain on premises owned or occupied by him.
- (b) The following are hereby specifically declared to be public nuisances offending public morals and decency:
 - (1) All gambling devices, slot machines and punch boards, except as approved by the state;
 - (2) All houses kept for the purpose of prostitution or gambling.

Sec. 50-4. Public nuisances affecting peace and safety.

- (a) No person shall within the City of Mequon, cause or create a public peace or safety nuisance or permit such nuisance to remain on premises owned or occupied by him.
- (b) The following are specifically declared to be nuisances disturbing the public peace or endangering the public safety:
 - (1) All trees, hedges, billboards or other obstructions which prevent persons driving automobiles or other vehicles on the city streets from having a clear view of traffic approaching an intersection from cross streets;
 - (2) ~~All loud, discordant or unnecessary noises and annoying vibrations~~ Making, continuing or causing to be made any loud, discordant, disturbing or unnecessary sounds or noises and/or annoying vibrations emanating from or in the proximity to a premises by persons associated with that premises, such as horns, whistles, music amplification equipment, public address systems, which would tend to annoy or disturb a person of ordinary sensibilities in the proximity of the premises;
 - (3) All open or unguarded wells, cisterns, pools or excavations so located as to endanger public safety or the safety of children;
 - (4) All buildings, walls and other structures, which have been damaged by fire, decay or otherwise to an extent exceeding one-half their assessed value;
 - (5) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use;
 - (6) All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as an official traffic control device placed or maintained upon or in view of any public highway, street, alley or railway crossing;
 - (7) All hanging signs, awnings and other similar structures over the streets, alleys or public ways of the city or projecting more than six feet over the sidewalks or so situated or constructed as to endanger the public safety;
 - (8) All tree limbs which are less than ten feet above the surface of any public sidewalk or 14 feet above the surface of any street;
 - (9) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

- (10) The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.
- (11) Keeping, harboring or maintaining any domestic pet which howls, barks, screeches, whines, cries or similar sounds which may be heard beyond the boundary of the property of the owner, keeper or harborer so as to materially interfere with or affect the health, comfort, peace and quiet of the public, or the reasonable use and enjoyment of the neighboring residential properties where the animal sounds are shown to have occurred either as an episode of continuous noise lasting for a minimum period of fifteen (15) minutes, or repeated episodes of intermittent noise lasting for a minimum period of thirty (30) minutes. It shall be an affirmative defense under this division that the animal was intentionally provoked by a party other than the owner to make such noise.
- (12) Except for construction activities regulated under section 46-133 and emergency operations related to utility repairs, municipal operations and snow removal, the operation of construction or repair machinery, recreational vehicles, or garden and lawn equipment between the hours of 10:00 p.m. and 6:00 a.m.;
- (13) Repeated violations of the municipal code.

Sec. 50-5. Abatement of nuisances.

- (a) ~~Inspection of premises.~~ Whenever complaint is made to the mayor by a private citizen or any official or employee of the city that a public nuisance exists within the City of Mequon, the mayor, official or employee shall promptly notify the health officer and the chief of police who shall inspect or cause to be inspected the premises upon which such nuisance is alleged to exist and shall make a written report of their findings to the mayor. Enforcement. The chief of police, the chief of the Southern Ozaukee Fire and Emergency Medical Services Department, director of the community development department, city engineer, and the building inspector shall have the power and authority 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 appropriate official shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and has been satisfied that a nuisance does in fact exist.
- (b) *Summary abatement procedure.*
- (1) ~~Notice to owner or occupant.~~ If the inspecting official shall determine that a public nuisance exists on ~~private property within the city~~ and that there is great and immediate danger to the public health, safety, morals, decency or peace, the mayor shall direct the chief of police to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or upon the occupant of the premises where such nuisance is caused, permitted or maintained, and, if the owner is a non-resident or cannot be found, ~~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, as the case may be, to abate or remove such nuisance within a reasonable time of not less than 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 person causing, permitting or maintaining the nuisance, owner or occupant as the case may be.
- (2) ~~Failure of owner or occupant to abate nuisance~~Abatement by city. If the owner or occupant fails to comply with the aforesaid notice within the time limited or if he cannot be found, the health officer, in the case of health nuisances, and the chief of police in all other cases shall cause the abatement or removal of such public nuisance. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the inspecting official shall cause the abatement or removal of such public nuisance.

- (c) Abatement in other cases. If the inspecting official shall determine that a public nuisance exists within the city, but that the nature of such nuisance does not threaten great and immediate danger to the public health, safety, peace, morals, decency or peace, the mayor shall direct the inspecting official 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, if the owner is a non-resident or cannot be found, 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, as the case may be, to abate or remove such nuisance within a reasonable time of not less than 10 days. . If such nuisance is not abated or removed within 10 days, the inspecting official 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.
- (1) ~~Notice to owner or occupant.~~ If the inspecting official 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, morals, decency or peace, they shall file written reports of their findings with the mayor, who shall forthwith direct the city clerk to issue a notice to the owner or occupant of the premises requiring him to appear before the common council at a regular or special meeting thereof on the day and time appointed by the mayor and then and there show cause, if any there be, why said nuisance should not be abated and removed at the cost and expense of the owner or occupant, as the case may be. A copy of said notice shall be served upon the owner or occupant of said premises by the chief of police at least ten days prior to the date set for hearing, or if the owner of the premises is a non-resident or cannot be found, a copy of such notice shall be published in the official newspaper and a like copy mailed to the owner directed to his last known address as shown by the records of the city treasurer at least 15 days before the date set for hearing.
- (2) ~~Hearing.~~ At the time set for hearing the common council shall hear testimony relative to the facts and shall enter written findings thereon. If the council shall find that the public nuisance exists on said premises or is kept or maintained or allowed by the owner or occupant, it shall order the owner or occupant, as the case may be, to abate the same.
- (3) ~~Failure of owner or occupant to abate.~~ In the event that the owner or occupant shall fail to comply with the order of abatement of the common council, the council shall, without further notice, order the chief of police to comply therewith and to make return of the cost and expense of abating or removing such nuisance to the city treasurer.
- (d) Cost of abating nuisance. In addition to any other penalty imposed under this chapter for the maintenance of a nuisance, the cost of abating or removing a nuisance by the city shall be collected from the owner or occupant or person causing, permitting or maintaining said nuisance or, if notice to abate such nuisance has been given to the owner, such costs may be charged against the premises and assessed against the real estate as another special taxes charge.
- (e) Remedies not exclusive. In addition to the methods of abatement of public nuisances specified in this section, the mayor or common council may also institute an action in the Ozaukee County circuit court for abatement of any public nuisance existing within the limits of the City of Mequon in accordance with the provisions of Wis. Stats. ch. 823. 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 section 1-7 of this Code.

Sec. 50-6. Chronic nuisances premises.

- (a) Findings. The city council finds that any premises that generates three or more responses in a one year period by the police department for nuisance activities as defined in subsection (b) below, has received more than the appropriate level of general and adequate city service and has placed an undue and inappropriate burden on the taxpayers of the city. The common council therefore authorizes the chief of police, as provided in this chapter, to require the premises owner or occupant to comply with nuisance abatement

plans and to charge the owner or occupant of such premises the costs associated with abating the violations at the premises where nuisance activities chronically occur as set forth in section 50-9.

- (b) *Definitions.* The following terms shall be defined as follows in this article, and the singular includes the plural and the plural includes the singular:

Chief means the chief of police or his or her designee.

Owner means a person who has legal title or possession, charge, care or control of premises, including as executor, administrator, trustee, or guardian of the estate of a person or property.

Person includes a corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, limited liability company or any other legal entity.

Person associated with premises means the premises owner, operator, manager, resident, occupant, guest, visitor, or person present on the premises (other than trespasser) or employee or agent of any of the above persons associated with the premises.

Police department response means a sworn, on-duty city police officer is dispatched to a premises in response to a good faith report of nuisance activity, as defined below, occurring or having occurred at the premises, which complaint said officer finds to be credibly supported during his/her investigation, and which results in an arrest, or the issuance of a citation, or a criminal or juvenile complaint.

Premises means an individual building, dwelling, or dwelling unit and associated common areas or vacant land.

Nuisance activity means any of the following activities, behaviors, or conduct whenever engaged in by persons associated with a premises that causes or results in:

- (1) An act of harassment, as defined in Wis. Stats. § 947.013;
- (2) Disorderly conduct, as defined in Wis. Stats. § 947.01;
- (3) Battery, substantial battery, or aggravated battery, as defined in Wis. Stats. § 940.19;
- (4) Lewd and lascivious behavior, as defined in Wis. Stats. § 944.20;
- (5) Prostitution, as defined in Wis. Stats. § 944.30;
- (6) Theft, as defined in Wis. Stats. § 943.20;
- (7) Receiving stolen property, as defined in Wis. Stats. § 943.34;
- (8) Arson, as defined in Wis. Stats. § 943.02;
- (9) Possession, manufacture, or delivery of a controlled substance or related offenses, as defined in Wis. Stats. Ch. 961;
- (10) Gambling, as defined in Wis. Stats. § 945.02;
- (11) Trespassing, as defined in Wis. Stats. §§ 943.13 and 943.14;
- (12) The execution of arrest or search warrants at a particular premises;
- (13) Alcohol violations, as defined in section 14-24 of the Code, and Wis. Stats. § 125.07;
- (14) Obstructing or resisting an officer, as defined in Wis. Stats. § 946.41;
- (15) Violation of occupancy restrictions, as defined in the Code;
- (16) Any conspiracy to commit, as defined in Wis. Stats. § 939.31, or attempt to commit, as defined in Wis. Stats. § 939.32, any of the activities, behaviors, or conduct enumerated in this subsection (b);

- (17) Making, continuing or causing to be made any loud, disturbing or unnecessary sounds or noises emanating from or in the proximity to a premises by persons associated with that premises, such as horns, whistles, music amplification equipment, public address systems; and construction or repair machinery or garden and lawn equipment between the hours of 10:00 p.m. and 6:00 a.m., which would tend to annoy or disturb a person of ordinary sensibilities in the proximity of the premises.
- (c) *Chronic nuisance notice to property owner.* Whenever the police department has responded to three or more nuisance activities that have occurred at a premises during any consecutive 12-month period, the chief may notify the premises owner or occupant in writing that the premises constitutes a chronic nuisance. In calculating the requisite nuisance activities, the chief may count separate qualifying nuisance activities occurring on the same day (as long as they are distinct in time) or different days and further may consider whether or not to count a qualifying nuisance activity when it is reported by a person associated with the premises under circumstances that would encourage and not penalize self-reporting and facilitate police response for the benefit of the community.
- Pursuant to Wis. Stats. § 66.0627(7), police department responses related to (a) domestic abuse, as defined in § 813.12 (1) (am), (b) sexual assault, as described under §§ 940.225, 948.02, and 948.025, or (c) stalking, as described in § 940.32 shall not be used in calculating the nuisance activities to constitute a chronic nuisance.
- The notice shall contain the street address or legal description sufficient to identify the premises, a description of the nuisance activities that have occurred at the premises, a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to the appeal rights of the owner.
- (d) The notice required in subsection (c) above shall be deemed to be properly delivered if sent either by first class mail to the premises owner's or occupant's last known address (deemed delivered on third day after depositing in mail) or if delivered in person to the premises owner. If the premises owner or occupant cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's or occupant's usual place of abode in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first class mail to the last known address of the owner or occupant as listed in city records.

Sec. 50-7. Abatement plan.

Any owner receiving notice pursuant to section 50-6 shall meet with the chief within five days of receipt of such notice. The parties shall review the nuisance activities occurring at the premises for the purpose of determining the appropriate abatement plan for the premises. Within ten days of this meeting unless the chief agrees in writing to a longer period, the owner shall comply with the abatement plan agreed upon with the chief to end the nuisance activity on the premises. The plan shall also specify a name, address, telephone number and if applicable a fax number and e-mail address of a person living within 60 miles of the premises who can be contacted in the event of further police, fire, or inspection contact.

Sec. 50-8. Penalties for failure to comply with abatement plan.

Any person failing to comply with the abatement plan under section 50-7 shall be subject to a penalty as provided under section 1-7 of the Code.

Sec. 50-9. Additional nuisance activity.

If additional nuisance activity shall occur within 12 months after the notice authorized under subsection 50-6(c) has been issued to the owner or occupant, and this additional nuisance activity has occurred not less than 15 days after such notice had been served, and the chief determines that reasonable efforts have not yet been made to abate the nuisance activity, then the chief shall calculate the cost of police department personnel response for

this additional and any subsequent nuisance activities occurring within 12 months of the last nuisance activity, and shall prepare a statement of such costs to be assessed to the owner or occupant of the premises as a special charge against the property. The chief shall send the assessment of the cost of police response to the premises owner or occupant and notify the owner or occupant in writing that the assessment must be paid within 30 days or it will be levied and collected as a special charge pursuant to Wis. Stats. § 66.0627. This assessment of police costs and the notice shall be prepared and delivered in the manner provided for in section 50-6, and the chief shall provide a copy to the office of the city treasurer.

Sec. 50-10. Eviction or retaliation prohibited.

- (a) It shall be unlawful for a landlord to terminate the lease agreement or periodic tenancy of any tenant or otherwise retaliate against any tenant because that tenant complained to the chief about nuisance activity on the landlord's premises. It shall be presumed that any attempt to increase charges, reduce services, or to otherwise harass or retaliate against the tenant during the twelve-month period following receipt of the complaint by the chief constitutes unlawful retaliation under this subsection. Such presumption shall be rebutted by the preponderance of evidence that the actions taken by the landlord were based upon good cause. "Good cause" as used in this subsection means that a landlord must show good cause for his or her actions, other than one related to or caused by the operation of this section. Notwithstanding the foregoing, a tenant's lease agreement or periodic tenancy may be terminated for a failure to pay rent; committing nuisance activity as defined in section 50-67; violating the terms and conditions of the lease agreement or periodic tenancy or as otherwise provided in Wis. Stats. ch. 709, and ch. Ag. 134, Wis. Adm. Code. A landlord's failure to renew a lease agreement or periodic tenancy upon expiration of such lease agreement or periodic tenancy shall not be deemed a violation of this subsection.
- (b) Any person violating the above section shall be subject to a penalty as provided under section 1-7 of the Code.

Sec. 50-11. Appeal.

The chief's decision under sections 50-6 through 50-9 may be appealed to the board of appeals in accordance with the provisions of section 58-41 of the Code, except that any appeal of the chief's decision(s) under sections 50-6 through 50-9 of the Code must be filed within 15 days of receipt of the written decision or order being appealed. The board of appeals, after deciding such appeal(s) under this article, shall transmit a signed copy of the board's decision to the appellant and to the chief.

Secs. 50-12—50-80. Reserved.



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Office of Administration

TO: Public Welfare Committee
FROM: Justin Schoenemann, Assistant City Administrator
DATE: October 3, 2022
SUBJECT: Work Calendar

Meeting Topics

October

- Electronic Meetings Ordinance (Continued)
- Nuisance Ordinance
- Survey Plan Requirement Ordinance

November

- Nuisance Ordinance
- Survey Plan Requirement Ordinance

December

- Nuisance Ordinance
- Electronic Meetings Ordinance (Continued)

Future Agenda Topics

- No Mow May
- Architectural Board Review (Continued)
- Chapter II, Article IV Review (Continued)
- Adopt-A-Median Program
- Community Outreach Initiatives
- Logo Redesign/Branding
- Home Irrigation Systems (Fall 22)
- Composting Plan (2023)

2022 Completed Items

- Resident Swimming Pool Safety Covers (Continued)
- Aldermanic Special Election Ordinance
- Aldermanic Wards Modifications
- Bee City Designation
- Architectural Board Membership
- Electronic Meetings Ordinance
- Polling Sites
- Burn Ordinance